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May 1, 1970

REPORT

TO: Commission on Executive Reorganization  
 FROM: Commission Staff  
 SUBJECT: Labor Agencies and Functions

The attached report contains a summary of the organization and activities of the following agencies:

- Employment Security Commission
- Industrial Accident Board
- Department of Labor and Industry
- Board of Arbitration and Conciliation
- Labor Safety Study Commission
- Commission on the Status of Women

In addition, this report contains a summary of the basic activities involved in the following functions:

- Administration of the Nurses Employment Practices Act (Board of Health)
- Industrial Hygiene (Division of Air Pollution, Industrial Hygiene and Radiation of the Department of Health)
- Licensing and Inspection of Powder Magazines (State Fire Marshal)
- Labor Compliance (Labor Compliance Section of the Construction Division of the Highway Department)
- Equal Employment (Equal Employment Opportunity Office of the Construction Division of the Highway Department)

Each of the agencies listed above was sent a copy of the respective summary reviews which are incorporated in the "present organization section" of this report. The agencies were asked to review the summaries for factual accuracy and completeness and return the same with any additions or corrections. Replies and corrections were received from all agencies.

The staff emphasizes that the recommendations contained in this report are merely that. They represent the best judgment of the staff based upon the research that has been conducted.

This report, for several reasons, is more voluminous than any previously prepared by the staff: 1) the report describes over 20 programs administered by 9 executive agencies; 2) the laws dealing with the programs and their respective agencies are lengthy, diverse and complex; and 3) 110 pages of the report are devoted exclusively to two large agencies--the Employment Security Commission, which employs over 330 personnel, and the Industrial Accident Board, which employs over 60 personnel. During the past biennium, these two agencies alone expended a combined total of nearly \$40 million.

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## PRESENT ORGANIZATION

### EMPLOYMENT SECURITY COMMISSION

#### Organization

To the end of eliminating "a serious menace to the health, morals, and welfare of the people of this state" and achieving social security and stability, the Unemployment Compensation Law, Title 87, Chapter 1, R.C.M. 1947, was adopted by the 1937 Legislature. This law is generally designed to encourage employers to maintain more stable employment and to provide for a systematic accumulation of funds during periods of employment to provide benefits to employees for periods of unemployment (Section 87-102, R.C.M. 1947).

At the time of its inception in 1937 the primary emphasis of this law was the provision of unemployment compensation insurance. Of course, unemployment insurance is still a major part of the employment security program, for it helps workers maintain some degree of economic stability during layoff periods. However, over the years as the Montana economy has advanced and grown, employment security emphasis has shifted more and more to services and programs aimed at the full utilization of manpower resources. These services include job development, referral and placement of workers, job analysis, occupational testing, employment counseling and selective placement, industrial services, community participation and labor market information. In the past nine years a substantial amount of federal legislation has been enacted creating new manpower and training programs which have caused the primary emphasis of the employment security program to be placed in the provision of employment services.

Section 87-117, R.C.M. 1947 provides for the creation of a three member Commission to be known as the Employment Security Commission of Montana.\* The

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\*Until 1969 the Employment Security Commission was known as the Unemployment Compensation Commission. The change was one in name only.

GOVERNOR

Attorney

Chief of Appeals

Appeals Referee

Chairman  
Employment Security  
Commission of Montana  
2 Commissioners

Advisory Council

Merit Council

Veterans Empl. Service

Director  
Unemployment Insurance

U.I. Claims  
Management Analyst

U.I. Research

Tax & Benefit Tech.

Field  
Representatives

Chief of  
Contributions

Supervising Tax  
Examiners

Tax  
Examiners

Cashier

Chief of  
Benefits

Claims Investigator

Supervising Claims  
Examiner

Claims  
Examiner

Experience Rating  
Supervisor

Administrative  
Officer

Fiscal & Personnel  
Office Services

Machine  
Operations

Cost  
Reduction

Information  
and  
Training

Chief Research  
Analyst

Director  
Employment Service

E.S. Management Analyst

E.S. Research

Spvsr. Technical Services

Placement Officer

Jobs Corps Coordinator

Farm Placement

Older Worker Specialist

Teacher - College  
Professional Placements

Supervisor Special  
Applicant Services

E.S. Claims  
Management Analyst

Community Employment  
& Win Supervisor

Community Employment  
Technician

MDTA Specialists

Field Supervisors

24 Local Employment  
Service Offices

Commission is appointed by the Governor, by and with the advice and consent of the Senate. Two of the members must be from opposite political parties, and serve for four year terms on a per diem basis, receiving \$10.00 per day for actual services plus actual and necessary travel expenses. The third member of the Commission is designated Chairman at the time of his appointment and serves in a full-time capacity as Executive Director. He receives a full-time salary in an amount fixed by the Governor.

It is the duty of the Employment Security Commission to administer the Unemployment Compensation Law, and to this end the Commission

...shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such action as it deems necessary or suitable to that end.... The commission shall determine its own organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. (Section 87-120, R.C.M. 1947)

Though vested by law with the above listed statutory powers and duties, the Commission in fact presently exercises only its quasi-judicial powers, and these to only a limited degree. As set forth in the law (Section 87-107, R.C.M. 1947) this includes only hearings of appeals of decisions made by the Commission's appeals referee on disputes concerning benefits and contributions for the unemployment compensation program (which, it must be noted, is only a portion of one of eight programs administered by the Commission's administrative divisions). The Commission does not make or approve any policy and does not handle any administrative matters. Policy, in fact, in the form of minimum standards of performance and administrative procedures is set for all programs by the United States Department of Labor, which, by means of federal grants, funds the entire operation of this agency. Policy, above and beyond but not in conflict with the minimum standards, for the specific local implementation needs of each program is developed

and promulgated, through the Executive Director, by the directors of the Unemployment Insurance and Employment Service Divisions. Day by day supervision of the administration of the programs is handled, through the Executive Director, by the Division directors. Both expenditure of funds and operating procedures are audited annually by the United States Department of Labor in order to insure strict compliance with federal directives, rules and regulations. This compliance, in all matters, is required as a condition of state participation in federal grant moneys.

The Employment Security Commission meets monthly (though a regular meeting schedule is not required by law, but is up to the discretion of the Chairman) to hold hearings and exercise its quasi-judicial powers.

Section 87-118, R.C.M. 1947 provides that the Commission establish two co-ordinate divisions:

The Montana state employment service division created pursuant to section 87-132, and the unemployment insurance division. Each division shall be a separate administrative unit with respect to personnel, budget, and duties except in so far as the commission may find that such separation is impracticable.

The Employment Service Division of the Employment Security Commission exists for the primary purpose of promoting the fullest possible employment. It is also the receiving station for the claims for unemployment compensation for the three unemployment insurance programs (Unemployment Insurance, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-servicemen).

Throughout the years, the Employment Service Division has constantly expanded and redirected its program to reflect changing economic conditions and to adopt manpower utilization functions to the needs of the times (this will influence numerous federal programs separate from and in addition to what will later be referred to as the Employment Service Program).

Immediately following World War II, a six point program was established to guide the operations of the Employment Service Division. This program, covering (1) effective placement, (2) employment counseling, (3) special services to veterans, (4) personnel management service to employees and unions, (5) labor market analysis and information, and (6) cooperation with community organizations and government agencies, was flexible enough to incorporate special services to groups of job-seekers outside the norm by reason of age, race, nationality, occupation, or place of residence. These groups include older workers, youth, minority groups, handicapped, professional personnel, migrant workers and jobless workers located in geographic areas of chronic and persistent unemployment.

The Employment Service Division now operates not merely as a system of labor exchanges, but in a leadership role in all aspects of manpower utilization. This includes (1) participation in programs for the training and retaining of individuals in order to provide initial or new skills and to generally upgrade the skills of the labor force; and (2) participation in local industrial development efforts by providing manpower information, advice, and other assistance.

The Employment Service Division has these main functions:

1. Furnishes employers with qualified and satisfactory workers.
2. Assists employers in utilization of available labor supply.
3. Arranges to secure skills and talents of workers not available in local labor supply.
4. Secures a suitable job promptly for each work applicant.
5. Maintain channels of recruitment and information to assist workers in discovering work in other labor markets when the home field provides insufficient labor demand.



6. Assists applicants by means of tests, counseling, and conferences to find work to which they are best suited.
7. Provides continuing assistance to handicapped applicants in securing employment opportunity.
8. Promotes the employment and re-employment of veterans in accord with preferential objectives.
9. Compiles, summarizes and distributes pertinent and useful labor market information on a local, area, state and national scale.
10. Develops community aid in furthering employment stability and utilization of labor supply.
11. Receives and forwards unemployment insurance claims and claim facts for work applicants during periods of unemployment.

The Unemployment Insurance Division of the Employment Security Commission provides benefits to eligible unemployed men and women (including federal employees and ex-servicemen) in order that their income might be maintained, the economy stabilized and the labor force turnover reduced.

The Unemployment Insurance Division performs three major functions:

- 1) The collection and recording of contributions from all employers subject to the Unemployment Compensation Act, which involves the determination, by means of reports, field visits and audits, whether the employer is liable under the act, and the amount of liability.
- 2) The maintenance of wage data concerning all individual workers employed by employers subject to the law by means of reports, field visits and audits, and an extensive numbering system involving almost all gainfully employed individuals in the state.

3) The disbursement and recording of weekly benefits to all workers unemployed through no fault of their own, who are entitled to such benefits by reason of their past work experience with subject employers, involving the determination of benefit rights and amounts for individual claimants.

The Employment Security Commission has also established certain units, such as the administrative, legal, appeals and information and training units, in order to render administrative assistance to the two major divisions and in order to avoid duplication of effort between the divisions.

The Employment Service Division operates 24 local offices and has contact points and affiliated offices in all parts of the state. The Unemployment Compensation Division maintains a field force for auditing the records of employers and for investigating benefit claims about which some questions have arisen. The chief of the auditing unit hears appeals of any persons aggrieved by actions of the staff.

It must be noted here that the Employment Security Commission through its Administrative Divisions is required by law (Section 87-128, R.C.M. 1947) to maintain a close degree of cooperation with the federal government through the office of the United States Secretary of Labor. This cooperation is generally concerning: 1) the methods of administration and matters of policy, rules and regulations, employed by the Commission's Administrative Divisions; 2) the administration of Acts passed by the Congress of the United States and Executive requests thereon, extending unemployment compensation benefits deemed beneficial to this state by the division heads of the Employment Security Commission; 3) the administration of any Act of Congress establishing unemployment compensation benefits or similar benefits for federal employees and veterans or ex-service personnel of the armed forces of the United States; and 4) compliance with the regulations prescribed by the Secretary of Labor governing the expenditures of such sums as may be

allotted and paid to this state under Title III of the Social Security Act, as amended, for the purpose of assisting in the administration of the Unemployment Compensation Act.\* The Commission through its Administrative Divisions is also required by law (Section 87-129, R.C.M. 1947) to co-operate with other state agencies or federal agencies in the matter of reciprocal benefit arrangements. Finally, the Commission through its Administrative Divisions is required by law (Section 87-131, R.C.M. 1947) to co-operate with any other agencies (of this state, of other states or of the federal government) in matters of relieving unemployment and in making studies as to the practicality and probable cost of possible new state-administered social security programs.

As might well be expected, this close degree of co-operation with the federal government requires the Employment Security Commission's Administrative Divisions to administer, receive federal moneys in compliance with, and act under the provisions of numerous federal laws and/or acts of Congress, in addition to those policies formulated directly by the United States Department of Labor. These laws (in program form) are outlined as follows: (Note: The reason for including this here is to give some indication of the range and extent of federal co-operation and control.)

- I. Unemployment Insurance and Employment Service
  - A. An act to amend Title IX of the Social Security Act with respect to the amount authorized to be made available to the states out of the Employment Security administrative account for certain administrative expenses (77 STAT. 51; P.L. 88-31)
  - B. The Employment Security Administration Financing Act of 1954 (42 U.S.C.A. 503, 1101-1104, 1321-1323)

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\* Emphasis supplied

- C. The Employment Security Act of 1960  
(42 U.S.C.A. 501, 1101-1104, 1101 note, 1301, 1301 note, 1321-1324, 1321 note, 1361-1364, 1362-1364 notes, 1367, 1371)
- D. The Reed Unemployment Compensation Act  
(42 U.S.C.A. 503, note preceding 1101, 1101-1104, 1321-1323)
- E. The Unemployment Compensation Acts  
(42 U.S.C.A. 501-503, 1101 et sequence)
- F. The Federal Employees Unemployment Compensation Act (42 U.S.C.A. 1361-1371)
- G. The Social Security Amendments of 1960  
(P.L. 87-778)
- H. The Social Security Act of June 6, 1933, as amended (29 U.S.C.A. 49-49 n) (The Wagner-Peyser Act)

## II. Job Corps

- A. The Economic Opportunity Act of 1964, as amended (42 U.S.C.A. 2711-2729)
- B. The Economic Opportunity Amendments of 1965; Amendments to Title I - Youth Programs  
(79 STAT. 973; P.L. 89-253)
- C. The Economic Opportunity Act of 1966  
Amendments to Title I - Youth Programs  
(80 STAT. 1451; P.L. 89-794)

## III M.D.T.A. Labor Mobility - Relocation Assistance Allowance

- A. The Manpower Development and Training Act of 1962 (42 U.S.C.A. 2571-2574, 2581-2588, 2601, 2602, 2611-2620)
- B. The Manpower Act of 1965 (79 STAT. 75; P.L. 89-15)

- IV. Cooperative Area Manpower Planning System
  - A. Executive order number 11422-issued August 15, 1968
- V. Concentrated Employment Program
  - A. Established in 1967 by administrative action by the United States Department of Labor, at the request of the President.
- VI. Manpower Development and Training
  - A. The Manpower Development and Training Act of 1962 (42 U.S.C.A. 2571-2574, 2581-2588, 2601-2602, 2611-2620 or 76 STAT. 23; P.L. 87-415 [note: 76 STAT. 29\_7])
- VII. Work Incentive Program
  - A. The Manpower Development and Training Act of 1962 (42 U.S.C.A. 2571)
  - B. The Wagner-Peyser Act (29 U.S.C.A. 49-49k)
  - C. The Social Security Amendments of 1967 (81 STAT. 821; P.L. 90-248)

In the performance of its duties the Employment Security Commission's Divisions are advised and assisted by the Advisory Council to the Employment Security Commission, the Joint Merit System and the United States Veterans Employment Service.

In accordance with the provisions of the Wagner-Peyser Act (29 U.S.C.A. 49j) the Employment Security Commission has appointed an Advisory Council to the Employment Security Commission, composed of fifteen members: five represent employees, five represent employers and five represent the general public. Each member of the Council is appointed to a two year term.

The purposes of the Advisory Council are:

- 1) To advise in developing or revising policies in the administration and operations of the Employment Service and Unemployment Compensation programs.
- 2) To assist in promoting public acceptance and wider use of the Employment Service by management, labor and the public.
- 3) To assist the Employment Security Commission's Divisions in developing programs for solutions of employment problems on a state-wide basis and to encourage acceptance by the state government of such programs.
- 4) To assist the Employment Security Commission's Administrative Divisions in developing a legislative program to promote advisable amendments to the Montana Unemployment Compensation Act, to encourage acceptance by the state government of such a program, and to assist the Commission in promoting greater understanding of, and cooperation with, the Montana Unemployment Compensation Act.
- 5) To promote cooperation with other state agencies and organizations concerned with employment and unemployment problems.

Members of the Council are provided with such reports and other pertinent material issued by the Commission and by other agencies and organizations, including the United States Bureau of Employment Security, as the Commission deems advisable.

Meetings of the Council are called whenever deemed advisable by the Chairman of the Employment Security Commission. In the past, the Council met once a year; however, in the future the Executive Director anticipates that the Council will be required to meet at least twice a year.

Members of the Council receive \$10.00 for each day in attendance at meetings of the Council and for

each additional day spent traveling from their place of residence to the meeting place and return, plus actual and necessary travel expenses (transportation, lodging, meals). If travel by private automobile is used the cost will be reimbursed at the rate of \$0.10 per mile.

The Commission's Divisions are assisted in the selection of their personnel by the Joint Merit System. Merit System standards for the Commission's Administrative Divisions are issued by the United States Department of Labor and are a necessary part of the approved state plan required as a condition of federal grants. The merit system standards are applied to the Commission's personnel in order to provide a proper basis for personnel administration, to promote a career service, and to increase overall operating efficiency by insuring that only qualified personnel are employed.

In turn, the Commission's Employment Service Division provides a merit system testing service, through the local employment service offices, for applicants for positions in the State Department of Health, the Department of Mental Hygiene, the Department of Public Welfare, the State Civil Defense Agency, the Employment Security Commission, and the Commission on Aging.

The Veterans' Employment Service of the United States Department of Labor has assigned a representative to the staff of the Employment Security Commission in accordance with the Wagner-Peyser Act of 1933, the Servicemen's Readjustment Act of 1944, as amended, the Veterans' Readjustment Act of 1952 and the Veterans' Readjustment Benefit Act of 1966 (all are codified in Title 38, U.S.C.).

The representative and his secretary are administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans placement policies through the public employment services of the Commission's Employment Service Division. In cooperation with the public employment service staff the veterans service representative:

1) is functionally responsible for the supervision of the registration of veterans in local employment offices for suitable types of employment and for placement of veterans in employment;

2) assists in securing and maintaining current information as to the various types of available employment in public works and private industry or business;

3) promotes the interest of employers in employing veterans;

4) maintains regular contact with employers and veterans' organizations with a view of keeping employers advised of veterans available for employment and veterans advised of opportunities for employment; and

5) assists in every possible way in improving working conditions and the advancement of employment of veterans.

The office of the Veterans' Employment Service representative is funded directly by the United States Department of Labor.

The main offices of the Employment Security Commission are located at the corner of Lockett and Roberts, Helena, Montana 59601. Offices of the local employment service are located in Anaconda, Billings, Billings Youth Opportunity Center, Bozeman, Butte, Cut Bank, Dillon, Glasgow, Glendive, Great Falls, Hamilton, Havre, Helena, Kalispell, Lewistown, Libby, Livingstone, Miles City, Missoula, Polson, Shelby, Sidney, Thompson Falls and Wolf Point.

#### Funding and Personnel

The Employment Security Commission's Administrative Officer administers nine non-general fund accounts. Of these nine, one and part of another is maintained to pay the administrative expenses of the Commission's



Divisions, one to retire bonds from the Commission's building program, three to pay training and other expenses of federal programs administered by the Commission's Employment Service Division, and three and part of another to pay unemployment benefit claims to those persons insured by the Commission's Unemployment Insurance Division (including federal employees and ex-servicemen). The following is a detailed description of each account.

The Employment Security Commission Clearing Agency Account (910429) was created in 1937 in accordance with the provisions of Section 87-112, R.C.M. 1947. Revenues for this account are contributions from employers covered by the Unemployment Compensation Act. This account is used to account for income prior to transfer to the Employment Security Commission Trust Agency Account (910431) and to pay refunds of contributions erroneously collected.

The Employment Security Commission Trust Agency Account was created in 1939 in accordance with the provisions of Section 87-112, R.C.M. 1947. The source of revenue for this account is transfers from the Employment Security Commission Clearing Agency Account (910429). This account is used to account for moneys on deposit with the United States Treasury. Moneys in this account are invested in government securities until required for benefit payments.

The Employment Security Commission Benefit Agency Account (910430) was created in 1939 in accordance with Section 87-112, R.C.M. 1947. The revenues for this account are transfers from the Employment Security Commission Trust Agency Account (910431). This account is used to pay the unemployment benefit claims under the Unemployment Compensation Act.

The Veterans' Readjustment Assistance Federal and Private Grant Clearance Account (510451) was created in 1952 by administrative action of the Employment Security Commission. Revenues deposited in this account are federal grants allocated to pay unemployment benefit claims to federal employees and ex-servicemen.

The Employment Security Commission Administrative Federal and Private Revenue Account (410428) was created in 1937 in accordance with the provisions of Section 87-113 and 87-133, R.C.M. 1947. Revenues deposited in this account are federal grants allocated to pay all administrative costs of the Employment Security Commission's Administrative Division. Moneys in this account are also used to support Labor Mobility and M.D.T.A. administration, C.A.M.P.S., W.I.N. administration, Job Corps administration, C.E.P. administration and Unemployment Compensation for Federal Employees and Ex-Servicemen administration. Transfers of funds are made from this account to the Employment Security Commission Building Federal and Private Revenue Account (438748). The 1969 Legislature appropriated line item amounts to control administrative expenditures of federal funds deposited in this account.

The Employment Security Commission Building Federal and Private Revenue Account (438748) was created in 1959 by administrative account of the Employment Security Commission. Revenues for this account are transfers from the Employment Security Commission Administrative Federal and Private Revenue Account (438748). The fund was created to pay interest on bonds prior to the occupation of the new Employment Security Commission building. The account is now used to retire the bonds.

The M.D.T.A. Payments Federal and Private Revenue Account (410520) was created in 1962 by administrative decision of the Employment Security Commission to pay the costs of conducting programs to offer vocational training to unemployed and underemployed persons, and to support the Labor Mobility program. Federal grants for these programs are the source of revenue for this account. The 1969 Legislature made an appropriation to authorize the expenditures of these funds.

The Employment Security Commission Work Incentive Program Federal and Private Revenue Account (438750) was created in 1968 by administrative decision of the Employment Security Commission to pay allowances and stipends granted under the Work Incentive program. Federal grants and twenty per cent (20%) matching funds from the Department of Public Welfare of funds actually expended are the sources of revenue for this account.

The Employment Security Commission Concentrated Employment Program Federal and Private Revenue Account (438760) was created in 1968 by an administrative decision of the Employment Security Commission, to pay allowances and benefits under the Concentrated Employment program. Federal grants are the source of revenue for this account.

The tables below show administrative and benefit and allowance expenditures, respectively, of the Commission's Administrative Divisions for fiscal years 1968, 1969 and 1970 (estimated).

Administrative Expenditures

	<u>Fiscal Year 1968 &amp; 1969</u>	<u>Fiscal Year 1970 (appro.)</u>
Program of Unemployment		
Insurance & Employment		
Services	\$5,413,489	\$3,095,906
Labor Mobility	83,819	38,917
Job Corps	78,580	48,596
D.T.A.	238,210	132,772
W.E.T.P. (note: FY 1968 was the last year of operation for this program)	18,342	----
C.A.M.P.S.	21,526	21,308
W.I.N. (note: this program first became operative late in FY 1968)	110,762	191,716
C.E.P. (note: this program became operative in FY 1969)	94,381	349,024
	<hr/>	<hr/>
Totals	\$6,059,109	\$3,878,239

Benefit and Allowance Expenditures

	<u>Fiscal Year 1968 &amp; 1969</u>	<u>Fiscal Year 1970 (appro.)</u>
Unemployment Compensation for Federal Employees and Ex-Servicemen	\$1,202,043	\$ 800,000*
M.D.T.A.	1,043,080	1,260,000
Labor Mobility	81,342	26,000
W.I.N.	28,479	355,830
C.E.P.	48,358	450,000*
Unemployment Insurance	10,355,305	6,000,000
	<hr/>	<hr/>
Totals	\$12,758,607	\$8,891,830

\* estimated expenditures

The following is an account by division of the personnel employed by the Employment Security Commission: (see also, attached organizational chart)

<u>Section or Position</u>	<u>Number of Personnel</u>
Chairman	1 Chairman, 1 secretary, 2 commissioners (advisory capacity only)
Attorney	1
Chief of Appeals	1 Chief of Appeals, 1 stenographer
Appeals Referee	1
Advisory Council	15 members (advisory capacity only)
Merit System Council	3 members (advisory capacity only)
Veterans' Employment Service	1 Director and 1 secretary
Unemployment Insurance	1 Director and 1 secretary
Unemployment Insurance Claims Management Analyst	1
Unemployment Insurance Research	2 Labor Market Analysts 1 Statistician 1 Clerk
Tax and Benefit Technician	1
Field Representatives	11

<u>Section or Position</u>	<u>Number of Personnel</u>
Chief of Contributions	1
Supervising Tax Examiner	1
Tax Examiners	3
Cashier	1
Clerical Staff	16
Chief of Benefits	1
Claims Investigation	1
Supervising Claims Examiner	2
Claim Examiners	4
Experience Rating Supervisor	1
Clerical Staff	14
Clerical Staff	3 (Temporary)
Administration	
Administrative Officer	1
Accountants	3
Personnel Assistant	1
Clerical	5
Machine Section	
Supervisor of Machine Operator	1
Supervisor of Key Punch Operator	1
Tab Operators	4
Key Punch Operators	8
Information and Training	
Information and Training Officer	1
Research Analyst	1
Clerical	1
Employment Service	
Employment Service Director	1
Secretary	1
Employment Service	
Management Analyst	1
Employment Service Research	
Labor Market Analyst	1
Statistician	1
Clerical	3
Supervisor of Technical Services	1

<u>Section or Position</u>	<u>Number of Personnel</u>
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Placement Officer	1
Job Corp Coordinator	1
Farm Placement Supervisor	1
Older Worker Supervisor	1
Teacher Placement Officer	1
Supervisor of Speical Applicants Services	1
Employment Service Claims Management Analyst	1
Community Employment & WIN Supervisor	1
Community Employment Technicians	2
MDTA Specialists	3
Field Supervisors	3
Clerical	7
Local Offices - (24 in number)	
Managers	24
Assistant Managers	2
Master Counselors	1
Counselors	28
Labor Market Analysts	2
Supervisor of Interviewers	9
Interviews	105
Clerical	30
Total Personnel	
full-time	332
Temporary	3
Advisory	20

## Description of Programs

### Unemployment Insurance and Employment Service

General. The program of Unemployment Insurance and Employment Service was established in this state in 1937 through the provision of the Unemployment Compensation Act, Title 87, Chapter 1, R.C.M. 1947. In accordance with the provisions of this act, this program operates in compliance with the following federal laws: 1) The Wagner-Peyser Act, as amended (29 U.S.C.A. 49-49n); 2) 77 STAT. 51; P.L. 88-31; 3) The Unemployment Security Administrative Financing Act of 1954 (42 U.S.C.A. 503, 1101-1144, 1321-1323); 4) The Employment Security Act of 1960 (42 U.S.C.A. 501, 1101-1104, 1101 note, 1301, 1301 note, 1321-1324, 1321 note, 1361-1364, 1362-1364 note, 1367, 1371); 5) The Reed Unemployment Compensation Act (42 U.S.C.A. 503, note preceding 1101, 1101-1104, 1321-1323); 6) The Unemployment Compensation Act (42 U.S.C.A. 501-503, 1101 et sequence); 7) The Federal Employees Unemployment Compensation Act (42 U.S.C.A. 1361-1371); and 8) The Social Security Amendments of 1960 (P.L. 86-778). The general purpose of this program is to provide for the maintenance of social security and stability with respect to employment.

Description. For the purpose of adequate description, this program shall be divided into two portions: Employment Service and Unemployment Insurance (Note: As mentioned previously, the Employment Security Commission is divided into two divisions, the Unemployment Insurance Division and the Employment Service Division. This classification is an administrative one; however, in terms of a program classification, Employment Service and Unemployment Insurance are one program. In any event, one should not confuse the Employment Service Division with the Employment Service program or the Unemployment Insurance Division with the Unemployment Insurance program. They are not synonymous.)

## I. Employment Service

The Employment Service program is administered by the Employment Service Division. Support work for this program is provided by the administrative, legal and information units.

The Employment Service program provides a community manpower service by (1) obtaining jobs for persons seeking employment; (2) providing qualified and suitable workers for employers having jobs to offer; (3) developing programs to resolve the employment, unemployment and manpower utilization problems; (4) providing special counseling and testing services to employers, employees, individuals and community groups; (5) providing labor area information and market analysis upon request to any interested parties; and (6) providing recruitment and other services for farm placement programs and other special applicant programs (older workers, youth, handicapped etc.).

In addition to the general services outlined above, the Employment Service program provides the following services in cooperation with federal programs: (Note: The Employment Service Division receives no support funding for these services)

### 1. The Adult Basic Education Program (A.B.E.P.)

This program is designed to provide instruction to adults 18 years of age and older who have less than 8 years of formal schooling, with emphasis on those having less than a 5th grade education. Groups receiving special attention will be the unemployed, the underemployed, public assistance recipients and heads of families. The program is administered on the federal level by the Department of Health, Education and Welfare, Office of Education, and on the state level by the Montana Department of Public Instruction.

The Employment Service Division is responsible to refer qualified and needy individuals to educational facilities as a part of the overall plan to improve their employability. The referral of applicants to appropriate training facilities is an ongoing function of the Employment Service counseling program.



2. The Community Action Program (C.A.P.)

Through local community action agencies, programs are initiated which are designed to improve the plight of the disadvantaged within the community. The program is administered by the Office of Economic Opportunity.

The Employment Service Division serves on local C.A.P. committees, provides local area labor market information, and assists in devising appropriate plans of action to aid the disadvantaged.

3. The Defense Manpower Program (D.M.P.)

This program is designed to extend preferences in the award of certain federal government contracts to firms located in or near sections of concentrated unemployment which agree to employ disadvantaged workers in the performance of such contracts. Generally, the firms will need to agree that fifty per cent (50%) or more of the total number of workers used will be disadvantaged referred by the Employment Service. A training program is to be provided by the employer which will use disadvantaged workers to fill job vacancies for which they possess the aptitudes and potentials. The Secretary of Labor designates the sections of concentrated unemployment to be eligible. This program is administered by the Department of Labor, Bureau of Employment Security and by the Montana State Employment Service.

The local office managers of the Employment Service Division are responsible to (1) determine the eligibility of the firm, (2) approve or disapprove the application of the firm within five working days, (3) if disapproved, notify the business firm in writing, (4) if approved, complete certificate of eligibility and forward to the firm and to the Bureau of Employment Security. On successful awards of contracts the local office is responsible to refer and identify disadvantaged job-seekers.

4. Model Cities Programs

The Model Cities program provides grants and technical assistance to plan, develop and execute comprehensive programs for rebuilding or restoring blighted areas. Planning includes employment, training and such associated problems as health, transportation, crime and recreation. This program is administered on the federal level by the Department of Housing and Urban Development, and on a local level by local Model Cities Boards.

The Employment Service Division is responsible to assist this program by providing services for job placement, counseling, testing, training and referral to other agencies.

5. The Operation Mainstream Program (O.M.)

This program is directed to the needs of those chronically unemployed poor over age 22 who are unable to obtain appropriate employment or training assistance under other programs. Also included are projects designed to provide for the betterment or beautification of the community. This program is predominantly rural-oriented. The program is administered by the United States Department of Labor, Manpower Administration, Bureau of Work Training Programs.

The Employment Service Division is responsible to screen and refer qualified applicants to project sponsors.

6. Vocational Education Programs (V.E.P.)

Vocational Education programs are funded from the Smith-Hughes Act, George-Burden Act and the Vocational Education Act of 1963. Grants are made to states to assist them in strengthening, improving and expending existing programs of vocational education, in developing new ones, and in providing part-time

employment for youth who need financial help to continue their vocational education on a full-time basis. The program is administered on the federal level by the Department of Health, Education and Welfare, Office of Education and on the state level by the Department of Public Instruction.

The Employment Service Division refers qualified individuals to vocational education facilities.

#### 7. Vocational Rehabilitation

This program provides vocational rehabilitation to handicapped individuals enabling them to become capable to engage in gainful occupations commensurate with their maximum overall potential. Services are available to individuals who are under a physical or mental disability. The program is administered on the federal level by the Department of Health, Education and Welfare, Division of Vocational Rehabilitation and on the state level by the Division of Vocational Rehabilitation.

The Employment Services Division refers handicapped applicants to the Division of Vocational Rehabilitation representatives for diagnosis and application of available services. The Employment Service Division also provides placement assistance to such applicants following completion of rehabilitation.

#### 8. The Youth Opportunity Campaign

This is an annual promotional campaign to stimulate the employment of youth between the ages of 16-21. During the summer months, private and government employers are encouraged to employ youth and provide them with desirable experience and income. Cooperating in this promotion are private employers, labor unions, trade associations, colleges and local, state

and federal governmental agencies. 1969 is the fifth year for this program. The program is administered by the Department of Labor, Bureau of Employment Security and the Montana Employment Service.

The Employment Service is responsible to solicit the cooperation of employers, obtain job orders and refer youth for job openings. The Division must maintain promotional efforts from late March until August and provides monthly reports of efforts and results to the Bureau of Employment Security.

During the past biennium, under the program of Employment Service, the Employment Service Division registered 111,247 new job-seekers, conducted 41,490 counseling interviews, made 68,524 industrial job placements and 56,871 agricultural job placements and conducted 42,202 employer visits.

## II. Unemployment Insurance

The Unemployment Insurance Division is charged with the responsibility of carrying out a statewide Unemployment Insurance program which involves the payment of insurance benefits to eligible individuals and the collection of taxes from Montana employers who are subject to the Unemployment Compensation Law. The Unemployment Insurance Division administers three unemployment insurance programs: 1) U.I. (unemployment insurance) was created by Montana law (Title 87, Chapter 1, R.C.M. 1947) which governs terms of eligibility, amount of weekly benefits, source of funds, wage requirements, claims procedures, disqualifications; 2) U.C.F.E. (unemployment compensation for federal employees) was created by federal law (The Federal Employees Unemployment Compensation Law, 42 U.S.C.A. 1361-1371) and is subject to any applicable terms of the Montana Unemployment Compensation Act; and 3) U.C.X. (unemployment compensation for ex-servicemen) was created by federal law and is subject to any applicable terms of the Montana Unemployment Compensation Act. Wage credits under U.I., U.C.F.E. and U.C.X. may be combined to

create eligibility or to increase the amount of benefit payments due to an eligible unemployed worker. It should be noted that unemployment insurance is designed only to help fill a wage-gap while the claimant is being fitted into new employment or re-employment.

1. Source of Funds

Funds for payment of U.I. benefits are derived through payroll contributions paid by Montana employers under Montana law, at rates varying from 3.1 per cent of taxable wage totals down to 0.5 per cent at the lowest level, according to employment experience. Benefits paid under U.C.F.E. and U.C.X. are reimbursed to the state from the federal treasury.

2. Duration of Benefit Payments

Montana U.I. benefits are limited to thirteen (13), twenty (20), or twenty-six (26) weeks in the claimant's benefit year, which begins the Sunday prior to filing of a valid claim for unemployment compensation. The duration of the U.I. claim is based on quarterly earnings in the base period. U.C.F.E. and U.C.X. benefits are subject to the same limits.

3. Base Period Earnings

U.I. wage credits are wages earned while in the employ of Montana employers subject to the law, in the base period consisting of the "first four of the last five quarters." U.C.F.E. and U.C.X. use the same base period as U.I. Eligibility under U.C.X. rests upon service in the armed forces of the United States. Under U.C.X. the claimant may receive unemployment compensation under the law if:

(a) He had 90 or more continuous days of active service in the Armed Forces (or less than 90 days if discharged or released because of a service-incurred disability or injury).

(b) Such service began after January 31, 1955.

(c) He was discharged under conditions other than dishonorable.

(d) He meets the eligibility requirements of the state in which he first files for U.C.X. benefits.

#### 4. Benefit Amounts

Montana law sets the minimum weekly benefit amount at \$13.00 and the maximum at \$42.00. Claimants under U.C.F.E. and U.C.X. are subject to the same range of benefits, computed in the same fashion. Benefits are computed according to the table set forth in Section 87-103, R.C.M. 1947.

#### 5. Verification of Unemployment

Every week of unemployment claimed for benefit credit is checked against wage records of employers as such wage reports are received. Report of less than "excess earnings" in non-covered employment in a given week by a claimant is checked, if possible, by immediate contact with the employer concerned.

#### 6. Qualifications for Benefits

Required qualifications to receive benefits include:

(a) Meet monetary requirements of the law.

(b) Register for work at an office of the employment service.

- (c) Request preparation of a claim, and supply required information.
- (d) Report weekly earnings during period of unemployment.
- (e) Must be able, ready and willing to work at usual occupation or in suitable work.
- (f) Respond promptly to any suitable job opportunity.
- (g) Make reasonable search for work himself.
- (h) Report all work and gross earnings during any week for which benefits are claimed.

7. Disqualifications

A claimant shall be disqualified from receiving benefits for a stated number of weeks, or indefinitely, if it is established that the claimant:

- (a) Made a false statement or representation to obtain or increase benefits.
- (b) Has left work without good cause attributable to the employment.
- (c) Has been discharged for misconduct connected with his work or affecting his employment.
- (d) Failed to apply for or accept suitable work.
- (e) Failed to seek work.
- (f) Is unable to work or unavailable for work.
- (g) Is participating in a labor dispute.

(h) Left work to attend school.

(i) Is receiving wages in lieu of notice or separation or termination allowance.

(j) Is receiving workmen's compensation.

(k) Is receiving benefits under the Railroad Unemployment Compensation Act.

(l) Is retired and entitled to receive benefits in excess of \$100.00 per month.

(m) Leaves her work to be married or to follow her husband.

(n) Is in advanced stages of pregnancy or during two months after giving birth to a child.

8. Covered Employment

A covered employer is an individual or establishment whose payroll was \$500.00 or more during the current or preceding calendar year (exclusive of farm work or farm processing, railroads, domestic, and certain charity, religious and non-profit organizations).

9. Chargeable Employer

The account of the last employee, if covered, who gave employment to the claimant in excess of three consecutive work weeks, is the chargeable account with respect to any benefits paid to that claimant. The status of that account, benefit payments made against it and payroll contributions made under terms of the law, are all factors in determining the tax rate at which such employer's contributions are to be figured.



10. Employer in U.C.F.E. and U.C.X.

Any agency of the federal government or branch of the Armed Forces is an employer under the terms of the U.C.F.E. and U.C.X. law. The federal employer is not subject to the payroll tax but is required to report the earnings of a claimant formerly employed therein, upon request of the Employment Security Commission. Resulting benefit payments are paid from funds furnished by the federal government.

11. Liability for Contributions

The covered employer is required to pay a contribution of his taxable payroll for the purpose of unemployment compensation. Earnings of an individual employee in excess of \$3,000 in a calendar year are not subject to the contribution tax. No deduction may be made by an employer.

12. Appeal Rights

Any claimant, employee or interested party who believes that the decision of the Unemployment Insurance Division is contrary to the law or the facts may request a redetermination (rehearing, redecision) from the Claims Examiner, or may appeal from his decision through a local office of the Employment Service Division, requesting a review and stating the reasons therefore. Appeals must be filed within five days after receipt of notification or within seven days after notification is mailed.

1) Claimants

Application for redetermination or appeal may be filed through the local employment office when the claim was filed.

2) Employers

Application for redetermination or appeal may be filed through any local employment office, or may be addressed in a letter to that office or to the central office in Helena.

13. Interstate Agreements

Under agreement with other states, Montana acts as agent in receiving and forwarding claims for workers currently residents of Montana, subject to requirements of the state where earnings are reported. Other states will do the same for Montana, in which case Montana is the liable state.

The following is a statistical table describing the activities of the Unemployment Insurance Division during the past biennium:

I. UNEMPLOYMENT CLAIMS RECEIVED

A. Initial claims - Montana	41,613
B. Continued claims - Montana	362,371
C. Average number of weekly payments	6,185
D. Number who receive first benefit check	27,273
E. Number who receive maximum weeks	6,795
F. Ex-Servicemen - total claims	15,226
G. Federal Employees - total claims	20,911
H. Interstate as liable state - total claims	29,402
I. Interstate as agent state - total claims	48,334

II. UNEMPLOYMENT PAYMENTS MADE

A. Number - Montana	321,607
B. Amount - Montana	\$10,364,916
C. Weekly Average Benefit Amount	\$ 32.35
D. Federal Employees (federal funds entirely)	\$ 684,371
E. Ex-Servicemen (federal funds entirely)	\$ 513,429

III.	GROSS WAGES PAID IN COVERED EMPLOYMENT	\$1,349,395,635
IV.	TAXABLE WAGES IN WHICH UNEMPLOYMENT COMPENSATION COVERAGE PAID	\$ 774,187,962
V.	NET TAXES PAID BY EMPLOYERS	\$ 12,058,451
VI.	UNEMPLOYMENT RESERVES JUNE 30th	\$ 21,388,855
VII.	UNEMPLOYMENT COMPENSATION COVERAGE	
	A. Average liable employer	32,426
	B. Average covered employment	242,729
VIII.	DETERMINATIONS (JUDGEMENTS) AND DISQUALIFICATIONS	
	A. Unemployment Insurance	
	1. Determinations	15,382
	2. Disqualifications	10,290
	B. U.C.F.E.	
	1. Determinations	742
	2. Disqualifications	542
	C. U.C.X.	
	1. Determinations	876
	2. Disqualifications	620
IX.	OVERPAYMENTS AND RECOVERIES OF INSURANCE BENEFITS	
	A. Overpayments	
	1. Willful misrepresentation	
	a. U.I.	189 for \$10,479
	b. U.C.F.E. & U.C.X.	13 for \$ 1,068
	2. Other	
	a. U.I.	416 for \$34,685
	b. U.C.F.E. & U.C.X.	51 for \$ 3,338
	B. Recoveries	
	1. Willful misrepresentation	
	a. U.I.	\$ 9,740
	b. U.C.F.E. & U.C.X.	\$ 510

2.	Other	
	a. U.I.	\$21,801
	b. U.C.F.E. & U.C.X.	\$ 2,275
C.	Enforcement Action	
1.	Prosecutions recommended	
	a. U.I.	237
	b. U.C.F.E. & U.C.X.	9
2.	Refusal to prosecute and dismissal	
	a. U.I.	88
	b. U.C.F.E. & U.C.X.	3
3.	Acquittal	
	a. U.I.	0
	b. U.C.F.E. & U.C.X.	0
4.	Convictions	
	a. U.I.	118
	b. U.C.F.E. & U.C.X.	5
5.	Pending June 30, 1969	
	a. U.I.	31
	b. U.C.F.E. & U.C.X.	1

X. BENEFIT APPEALS

A.	Cases disposed of	
1.	Montana	
	a. Lower Authority	616
	b. Commission Hearings	90
2.	Federal Employees	
	a. Lower Authority	29
	b. Commission Hearings	4
3.	Ex-Servicemen	
	a. Lower Authority	13
	b. Commission Hearings	0
4.	Held for Other States	
	a. Lower Authority	260
	b. Commission Hearings	0
5.	Appeals Withdrawn Before Hearing	33
	Total Lower Authority	918
	Total Commission	94

Funding and Personnel. Federal funds for the administration of unemployment insurance benefits and the employment service and employers tax contributions are deposited

in the Employment Security Commission Administration Federal and Private Revenue Account (410428). Funds for benefit allowances for federal employees and ex-servicemen are deposited in the Federal and Private Grant Clearance Veterans Readjustment Assistance Fund (510451). Funds for Montana unemployment benefits are collected and deposited in the Employment Security Commission Clearing Account (910429). These funds are transferred to the Employment Security Commission Federal Trust Fund Account (910431) and invested in government securities, until needed for benefit payments at which time it is withdrawn and deposited in the Employment Security Commission Benefit Account (910430). During the past biennium \$5,654,587 was expended for administrative costs of this program. It is estimated that in the coming biennium \$6,234,183 will be appropriated for the administration of this program. Also during the past biennium \$11,557,348 was paid in benefits under this program. An estimated \$13,600,000 will be expended in benefits under this program during the current biennium.

The FTE (full time equivalent) for the administration of this program during fiscal year 1970 is 290.8 personnel.

#### The Manpower Development and Training Program (M.D.T.A.)

General. The M.D.T.A. program is administered on the state level by the Employment Service Division in accordance with the State-Federal Cooperation Agreement, Section 87-128, R.C.M. 1947, and on the federal level by the Office of Manpower, Administration and Training of the United States Department of Labor. The program was created by and operates within the provisions of the Manpower Development and Training Act of 1962 (42 U.S.C.A. 2571-2574, 2581-2588, 2601-2602, 2611-2620; 76 STAT. 23; P.L. 87-415).

The M.D.T.A. program has as its primary purpose the provision of occupational training for "those unemployed and underemployed persons who cannot reasonably be expected to obtain full-time employment without training."

The program places emphasis on the employment problems of young people, older workers, minority groups and disadvantaged persons, and provides for updating and upgrading occupational skill levels of many presently employed workers to overcome problems of skill obsolescence.

Training provided may be institutional (i.e. provided in either a public or private vocational or educational institution), using a classroom method of teaching; or on the job (OJT), which uses instruction combined with work at the jobsite; or in coupled projects, which include both. OJT may be provided by employers, public and private agencies, trade associations and other industrial and community groups.

OJT contractors may select for M.D.T.A. training those persons certified as eligible by the local employment service office and also their own employees who are being upgraded. The types of training available are basic education, prevocational training, occupational training, multioccupational projects, youth training, upgrading training and refresher training.

The four general categories of workers eligible for selection and referral to M.D.T.A. training are: (1) unemployed workers, (2) persons working less, or who have received notice that they will be working less, than full time in their industry or occupation, (3) persons who have received notice that they will be unemployed because their skills are becoming obsolete, and (4) persons working below their skill capacity. Persons with veterans' status are accorded priority over other unemployed or underemployed workers. Totally unemployed and underemployed persons receive the next priority.

Description. The Employment Service Division is primarily responsible for selection and referral of qualified M.D.T.A. applicants to institutional training.

The bulk of the actual institutional training work is done under the auspices of the Department of Public Instruction, which is financed in this instance by the Office of Education of the Department of Health, Education and Welfare.

The Employment Service interviewers are responsible to recognize applicants unlikely to find or hold suitable employment without training and who appear eligible for M.D.T.A. training. Further, the interviewers are responsible to describe the M.D.T.A. program to the applicant and refer the applicant to the Employment Service counselor.

The Employment Service counselor assists the applicant in identifying his potentials and motivations, to decide on a suitable vocational objective and how to obtain it, and to decide whether he should undertake training. The counselor also determines whether testing is needed and what kind of tests should be given. The counselor then refers the applicant, when classified and ready for selection for training, to the selection and referral officer.

The Employment Service M.D.T.A. selection and referral officer is responsible to select individuals for referral to M.D.T.A. training; to complete the necessary matriculation forms; and to assist the applicant in initiating request for advance allowance payment if the applicant requires the advance in order to accept referral to training.

A secondary responsibility of the Employment Service Division is administering the M.D.T.A. program is to provide followup services. In this regard, the Employment Service must (1) periodically visit training facilities to demonstrate local office interest in the persons enrolled and progress of the course, to correct misunderstandings, and to solve problems, especially with respect to allowance payments; (2) provide counseling and other services as needed to adjust vocational goals; (3) provide job development and placement activities, including scheduling of interviews with prospective employers;

and (4) obtain information which may be of use in selecting individuals for enrollment in future programs. Upon completion of training, the Employment Service will provide individualized placement services as needed and guidance and other services as needed to assist adjustment in employment.

During the past biennium the M.D.T.A. program conducted 7,009 screening interviews, 4,605 counseling interviews, 4,311 counseling interviews during training and administered 2,270 tests (G.A.T.B., S.A.T.B., Proficiency). There were 901 persons enrolled in training programs under this program and there were 450 non-agricultural and 56 agricultural placements made.

Funding and Personnel. Federal funds for the administration of the M.D.T.A. program are deposited in the Employment Security Commission Federal and Private Revenue Account (410428); funds for retraining and benefit allowances are deposited in the M.D.T.A. Payments Federal and Private Revenue Account (410520). During the past biennium administrative expenses totalled \$238,210 and retraining and benefit allowance expenditures totalled \$1,043,080. It is estimated by the administrative officer that in the current biennium \$292,988 will be expended for administration and \$1,210,000 will be allocated for retraining and benefit allowances.

The FTE (full time equivalent) for the administration of the M.D.T.A. program during fiscal year 1970 is 14.7 personnel.

#### The Concentrated Employment Program (C.E.P.)

General. The Concentrated Employment Program was established in 1967 by administrative action of the United States Department of Labor, upon request of the President, to concentrate public and private resources in a coordinated and comprehensive manpower program in selected, economically distressed areas that would result in substantial job opportunities for unemployed



sub-employed persons; to develop appropriate mechanisms for mobilizing and actually involving the business, labor, community and public leadership in the planning and implementation of this program; and to expand and improve ongoing manpower and training programs. The C.E.P. projects are planned and carried out by local sponsors in selected "target areas" that contain a significant concentration of unemployment and under-employment and that offer the hope that a concentrated, full-scale attack can substantially improve the economic circumstances of the residents. In planning and execution, the local sponsors work with and through the local Employment Service, vocational education groups and other service agencies.

Description. There is no standard method of operation for C.E.P. projects. Plans are developed by the sponsor (who is selected by the United States Department of Labor upon proper application) to meet local needs, and the "program mix" of on-the-job or classroom training, work experience, orientation, counseling and support services depends upon the characteristics of the local residents. Generally, however, the project offers the following services:

(1) Outreach and recruitment

The C.E.P. staff seeks out and recruits individuals in the target slum area who most need work or training. In some cases, the disadvantaged are referred to a Concentrated Employment Program from the local Employment Service office or through other programs and agencies.

(2) Orientation

After C.E.P. recruits a person, it gives him two weeks of general orientation. This includes, if necessary, such subjects as personal appearance, health, job-hunting, employment forms, budgeting, consumer education and practical information on transportation. During this phase, coaches and counselors work with each person on an individual basis to determine his needs and work out a plan of action for him.

(3) Medical, social, and other support services

Through its contracts with other public and private services agencies in the area, the C.E.P. project can often provide the medical and social support necessary to free the person enrolled to concentrate on the task of preparing himself for work. Some services are arranged for through agencies such as welfare, vocational rehabilitation, public health, or the school system. Others may be provided through private financing and voluntary organizations.

(4) Education and training

Depending on the needs of the individual, he may be referred to any of the basic education, employment experience or training components of the project carried out under the M.D.T.A. or Economic Opportunity Acts. The approach is flexible and the person receives only that combination of services which will help him find and hold a job.

(5) Job referral

When a person is ready, he is referred to a job. Job development and referral is an important part of any C.E.P. project, and the project staff work closely with local businessmen and labor groups to line up specific job opportunities.

(6) Followup

Even after a person enrolled in C.E.P. takes a job, his counselor continues to provide job counseling, assistance in transportation arrangements or help in finding suitable living quarters in order that he might be kept on the job.

The Employment Service Division is responsible to cooperate with local C.E.P. sponsors and to provide placement, counseling, testing and outreach services upon request.

During the six month period from December 1968 to June 1969 there were 123 persons enrolled in training under the Concentrated Employment Program, 494 counseling interviews were conducted and 66 non-agricultural placements were made.

Funding and Personnel. Federal funds for the administration of the C.E.P. program (included in the administrative cost of this program are orientation training costs and medical costs for such things as physicals and eyeglasses) are received by the Employment Service Division from the local sponsors. The administrative portion is deposited in the Federal and Private Revenue Employment Security Commission Administration Account (410428). Funds for allowance and stipend are deposited in the Federal and Private Revenue Account (438760). During the past fiscal year (1969) administrative costs totalled \$94,381. It is estimated that in fiscal year 1970 \$349,024 will be expended for administrative costs. During the past fiscal year \$48,358 was paid in allowances to persons qualified under this program. It is estimated that in fiscal year 1970 \$450,000 will be available for payment of allowances by the Employment Service Division.

The FTE (full time equivalent) for the administration of this program by the Employment Service Division in fiscal year 1970 is 41.0 personnel.

#### The Job Corps Program

General. A portion of the Job Corps program is administered on the state level by the Employment Service Division in accordance with the State-Federal Cooperation Agreement, Section 87-128, R.C.M. 1947, and on the federal level by the United States Department of Labor. The program was created by and operates within the provisions of the Economic Opportunity Amendments of 1965 (79 STAT. 973; P.D. 89-253), and the Economic Opportunity Amendments of 1966 (80 STAT. 1451; P.L. 89-794).

Generally, the Job Corps is a voluntary, national training program administered by the United States Department of Labor for young men and women 14 through 21 years of age who are out of school, out of work, and live in impoverished surroundings. In a new environment, the Job Corps program offers these young people the needed training to develop their potential and to build self-confidence.

The youth live at Job Corps centers in close contact with professional teachers and counselors. The goal of the Job Corps is to help these young people prepare for and find decent jobs and become contributing members of society.

The Job Corps program at all centers consists primarily of basic education, job skill training and useful work experience.

Description. With respect to the Job Corps program, the Employment Service Division generally has the following responsibilities:

(1) Recruiting and screening

Officially designated Job Corps screening agencies (in this case, the local Employment Service offices) recruit and screen interested applicants in accordance with Job Corps regulations. They transmit to the Job Corps regional office the properly assembled application folders of applicants who the interviewers believes meet the admission criteria. The Job Corps regional office reviews each application to verify the youth's eligibility.

A prescreening interview is conducted to inform the applicant about manpower programs and to determine whether the youth is a likely candidate for the Job Corps program. The objectives of this interview are: (1) to provide information on the nature of the program, what it offers the youth, and what it requires of him; (2) to explore whether the Job Corps is the program best suited to his needs; and (3) to inform the applicant about the time and the place of the screening interviews. A screening interview follows

for those who are likely Job Corps candidates. The objectives of this interview are : (1) to obtain and record pertinent data needed to determine if the youth is acceptable; (2) to verify that the Job Corps is the program best suited to his needs; (3) to provide more detailed information about what life will be like in the Job Corps.

(2) Followup responsibilities of the screening agency

The Job Corps regional office notifies the screening agency (in this case, the local Employment Service office) whether the youth's application is approved or disapproved, and, if approved, names the Job Corps center of assignment and mails transportation tickets and an itinerary. The screening agency contacts the applicant and arranges for an assignment interview. If the applicant accepts the assignment, the interviewer briefs him about his center assignment and travel itinerary, draws up an allotment authorization if the youth is eligible to make one, and prepares him for entry into the Job Corps. Finally, arrangements are made for the administration of the Job Corps enrollment oath. The screener accompanies the youth to the first mode of transportation and verifies the youth's departure.

If the youth's application is disapproved, the screening agency counsels the youth and makes an appropriate referral.

The screening agency is notified by the Job Corps center when the Corps member graduates from the program or leaves the Job Corps. The Center may seek the agency's help during the corpsman's enrollment if the youth has a special problem.

The Employment Service Division assists Job Corps graduates in finding suitable jobs. The Job Corps supplies pertinent resume and records to aid in placement.

During the past biennium there were 437 enrollments in the Job Corps program in Montana. The Employment Service Division conducted 877 counseling interviews, made 47 referrals to training, 148 non-agricultural placements and 27 agricultural placements.

Funding and Personnel. Federal funds to reimburse the Employment Service Division for recruitment and the selection and referral of youths to the Job Corps, and the follow-up and supportive services of these individuals after training are deposited into the Employment Security Commission Administrative Federal and Private Revenue Account (410428). During the past biennium \$78,580 in federal moneys was expended for the administration of this program by the Employment Service Division. It is estimated that \$87,731 will be expended on this program during fiscal year 1970.

The FTE (full time equivalent) for the administration of this program in fiscal year 1970 is 4.6 personnel.

#### Cooperative Area Manpower Planning System (C.A.M.P.S.)

General. The Cooperative Area Manpower Planning System was initiated on August 15, 1968 by President Johnson by Executive Order # 11422 to provide a system of "cooperative planning and execution of manpower training and supportive manpower service programs." The C.A.M.P.S. program provides a continuous liaison between various government services including cooperative planning of related program goals, a consistent web of program objectives, cooperative planning of services for a mutual advantage and a timely response to those operating problems which, due to changing conditions, frequently require adjustments in the extent, nature, and scope of services rendered.

Description. The C.A.M.P.S. program encompasses many of the manpower and related programs of eight federal agencies: the United States Department of Labor; the Department of Health, Education and Welfare; the

Department of Housing and Urban Development, the Department of Agriculture, the Department of Commerce, the Office of Economic Opportunity, the Department of the Interior, and the United States Civil Service Commission. These programs are administered by means of the Cooperative Area Manpower Planning System which includes regional, state and area committees. The regional committees are basically supervisory, while the state and area committees are responsible for the planning and execution of the manpower and related programs. Some examples of the types of cooperation made available through C.A.M.P.S. include: (1) tying the Office of Education's vocational training and remedial education in with Manpower Administration training programs; (2) linking the Concentrated Employment program and the nearest Civil Service Commission office so that government agencies offer the maximum number of training and job opportunities to the disadvantaged; (3) coordinating Concentrated Employment and Model Cities programs so that they work together to bring about better access between homes and jobs--by inducing industry to locate where the disadvantaged live, providing housing near jobs, and improving public transportation.

The Employment Service Division is responsible to take a leading role in forming state and local (area) C.A.M.P.S. committees, which will gather labor market information and plan the utilization of available programs and resources for each fiscal year.

Funding and Personnel. Federal funds for the administration of the C.A.M.P.S. program by the Employment Service Division are requested from the United States Treasury by a letter of Credit Payment Voucher. Funds are deposited in the Federal and Private Revenue Employment Security Commission Administration Account (410428).

In the past fiscal year (1969) the Employment Service Division expended \$15,874 on this program. \$21,308 has been allotted to the Employment Service Division for this program during fiscal year 1970.

The FTE (full time equivalent) for the C.A.M.P.S. program for fiscal year 1970 is 2.0 personnel.

## The Work Incentive Program (W.I.N.)

General. The Work Incentive program is administered on the state level by the Employment Service Division in accordance with the State-Federal Cooperation Agreement, Section 87-128, R.C.M. 1947, and on the federal level by the United States Training and Employment Service, United States Department of Labor. The program was created by and operates within the provisions of the following federal laws: The Manpower Development and Training Act of 1962 (42 U.S.C.A. 2571); The Wagner-Peyser Act (29 U.S.C.A. 49-49k); and The Social Security Amendments of 1967 (81 STAT. 821; P.L. 90-248).

The W.I.N. program is directed exclusively to welfare recipients covered by Aid to Families with Dependent Children (A.F.D.C.). The W.I.N. program provides for rehabilitation of the welfare client, rather than committment to long-term maintenance. Its goal is to move men, women, and out-of-school youth, age 16 or older, off the welfare rolls into meaningful, permanent employment. By becoming wage earners, the families will move from dependency to self-sufficiency in a productive environment.

Those persons eligible to participate in the W.I.N. program are: (1) each child and relative age 16 or over who is receiving A.F.D.C.; (2) each person age 16 or over (living in the same home as a relative or child receiving A.F.D.C.), whose needs are taken into account in determining the amount of the welfare payment; and (3) any person claiming A.F.D.C. who requests referral to the program (unless the welfare agency determines that his participation would be adverse to his family's welfare). Those considered ineligible for the program are: (1) persons who are ill, incapacitated, or advanced in age; (2) persons who live so far from any W.I.N. project that they cannot effectively participate; (3) children who are full-time students; and (4) persons whose presence in the home on a continued basis is required because of illness or incapacity of another member of the household.



Description. The Employment Service Division has been delegated as the sponsor of the W.I.N. program in this state. As such, they are responsible to provide the following services to those persons found eligible to participate: program orientation, training in communication and employability skills, testing, counseling, development of an employability plan, referral to work or training, institutional training, work-experience training, on-the-job training, special work projects, basic education, G.E.D. education, job development, job placement and follow-up.

The W.I.N. program is administered by the Employment Service Division by means of a team program. Teams are organized on a 3, 4 or 5 member basis, depending on the caseload allocated and the geographic area to be served. The teams are required to supply optimum service, from initial assessment and orientation through training, and/or work experience, to the ultimate goal-job placement.

During the six month period from December 1968 to June 1969 the Employment Service Division enrolled 492 persons in training under this program, conducted 1628 counseling interviews and made 77 non-agricultural placements.

Funding and Personnel. Federal funds for this program are requested from the United States Treasury by a letter of Credit Payment Voucher. The administrative portion is deposited in the Federal and Private Revenue Employment Security Commission Administrative Account (410428). Funds for allowances and stipends are deposited in the Federal and Private Revenue Account (438750). Quarterly, the Department of Public Welfare is billed for 20% of the actual funds expended ( the program is 20% matching on the part of the state Department of Public Welfare).

During fiscal year 1968, \$2,540 was expended for the administration of this program. In fiscal year 1969, \$41,909 was expended for administration and \$28,479 was expended in allowances and stipends. It is estimated that in fiscal year 1970 \$191,716 will be expended for the administration of this program and \$355,830 will be given in allowances and stipends.

The FTE (full-time equivalent) for the administration of this program for fiscal year 1970 is 18.0 personnel.

#### M.D.T.A. Labor Mobility Demonstration Projects-Relocation Assistance Allowances

General. The Employment Service Division cooperates with the Secretary of Labor, in accordance with the provisions of the State-Federal Cooperation Agreement (Section 87-128, R.C.M. 1947), in the development and execution of "pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs designed to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses" (Section 104 of the Manpower Development and Training Act of 1962). The purpose of this experimental work is to help Congress determine the advisability and nature of any future program of financial assistance for relocating unemployed workers. At present, Labor Mobility is still in the experimental stage; however, legislation that would make it permanent and continuous is now pending before Congress.

The Labor Mobility program was created by and operates within the provisions of the Manpower Development and Training Act of 1962 (42 U.S.C.A. 2571-2574, 2581-2583, 2601, 2602, 2611-2620) and the Manpower Act of 1965 (79 STAT. 75; P.L. 89-15). The general purpose of this program is (1) to provide grants and/or loans to involuntarily unemployed workers who have been selected to participate in an experimental project to help finance their relocations from areas with no job opportunities to areas of labor demand; and (2) to obtain specific information as to the success of the program, techniques to be used, services to be provided etc.

Description. In conducting Labor Mobility Demonstration Projects the Employment Service Division is responsible to (1) plan the detailed features of the

specific project, including operations, geographical aspects, and budgeting, with the assistance of the Department of Labor, and present these plans in a formal project proposal; (2) conduct the project as planned (this includes providing such services as (a) selection and referral of qualified applicants, (b) conducting follow-up programs, and (c) arranging for loans and grants to provide for relocation); (3) collect, analyze and submit data, as required; (4) cooperate as necessary with any research contractors; and (5) submit a final report, as prescribed by the Department of Labor.

During the past six months the Labor Mobility Demonstration Project No. 4 has designated 85 populations (groups of potentially eligible persons) for consideration, has conducted 20 pre-employment interviews, has made 44 worker relocations (11 of which were unsuccessful for one reason or another), and has received 6 local placements. The goals for Project No. 4 are 300 population designations and 100 worker relocations. (Note: Project No. 4 is the fourth in a series of experimental projects conducted by the Montana Employment Service).

Funding and Personnel. Federal funds for the administration of this program are deposited in the Employment Security Commission Federal and Private Revenue Account (410428). Funds for relocation assistance allowances are deposited into the M.D.T.A. Payments Federal and Private Revenue Account (410520). During the past biennium \$83,819 was expended for administration and \$81,342 was expended for relocation allowances. During the current biennium it is estimated that \$90,405 will be expended for administration and \$52,000 will be given in relocation assistance allowances.

The FTE (full-time equivalent) for this program for fiscal year 1970 is 3.0 personnel.

#### Relations With Other Agencies

Generally, the Administrative Divisions of the Employment Security Commission cooperates with any agency, federal, state or local that can provide any

needed manpower services. Some of these relationships are statutory, some are contracted formally, some are informal on a state level through letters of operational agreement and some are informal on a local level through verbal agreements.

With respect to the Work Incentive Program, the Employment Service Division is required by Title IV, paragraph C, of the Social Security Act, as amended, to cooperate with the United States Department of Labor in administering this program and to accept for training referrals made by the state Department of Public Welfare. The Employment Service Division has contracts for training with local, public and private schools. Also, the Employment Service Division is allowed to contract any other services deemed necessary with any other agencies, be it federal, state or local, governmental or private, in carrying out the provisions of this program.

The Manpower Development and Training Act of 1962, as amended through 1968, provides that the Employment Service Division shall cooperate with the state Department of Public Instruction by referring qualified applicants under the M.D.T.A. program to instructional programs administered and funded by the Department of Public Instruction.

Under the Concentrated Employment Program the United States Department of Labor has entered into a prime contract with the Butte-Silver Bow Anti-Poverty Council, which in turn is authorized to sub-contract all manpower programs to the Employment Service Division. The M.D.T.A. portions of the Concentrated Employment Program operate the same as described above.

In addition to these specific relationships defined under specific programs by means of federal or state statutes or federal administrative directives, the Employment Security Commission's Administrative Divisions are allowed to develop both formal (contracted) and informal (letters of operational agreement and verbal agreement) relationships with numerous other agencies and organizations-federal, state and local, governmental and private. These include Community Action committees, labor unions, employer organizations,

legal-aid services, the Division of Vocational Rehabilitation etc. The Development of these relationships is greatly influenced by the State C.A.M.P.S. Committee, which is composed of representatives of both state and federal agencies (State: the Department of Public Welfare, the Office of Economic Opportunity, the Division of Vocational Rehabilitation, the Department of Health, the Department of Public Instruction, the Employment Service Division, the Tribal Policy Board (represented by the Coordinator of Indian Affairs); federal: the Bureau of Apprenticeship and Training, the United States Civil Service Commission, the Office of Economic Opportunity, the Bureau of Indian Affairs, the Manpower Administration of the United States Department of Labor, the Department of Agriculture, the Department of Housing and Urban Development, and the Economic Development Administration of the Department of Commerce).

The Employment Security Commission is represented on the Emergency Resource and Planning Committee, the Human Resources Council, the Commission on the Status of Women, and the Advisory Council for Vocational-Technical Education by the Chairman and Executive Director of the Employment Security Commission.

#### Summary

The Employment Security Commission was created in 1937 to oversee and supervise the administration and enforcement of the Unemployment Compensation Law (Title 87, Chapter 1, R.C.M. 1947). Since the time of its inception, the agency's powers and duties with respect to employment security have been expanded by means of United States Department of Labor directives and federal legislation to include, in addition to the traditional program of Unemployment Insurance and Employment Service, the administration of numerous training, grant, service and planning programs designed to increase the utilization of Montana's manpower resources.

The Employment Security Commission consists of three members appointed by the Governor to four year terms, by and with the advice and consent of the Senate. Two of the members must be from opposite political parties, and serve in part-time capacities on a per deim basis. The third member is designated Chairman at the time of his appointment and serves as Executive Director. In order to effectively and efficiently administer the programs assigned to it, the Commission, through the merit system, has employed 332 full-time personnel and has organized these personnel, in accordance with the Unemployment Compensation Law, into two major divisions--The Employment Service Division and the Unemployment Insurance Division-- and three administrative support units--Administration, Public Information and Legal. During the past biennium, \$6,059,109\* was expended for operating and administrative costs of the agency.

\*Note: This agency is 100 per cent federally financed by the U.S. Department of Labor. As might be expected, the nature of the financing requires the agency to maintain strict cooperation with the U.S. Department of Labor.

Generally speaking, it is the duty of the Employment Security Commission to provide that the Unemployment Compensation Law is properly administered\*. To that end the law requires that the Commission exercise both policy making and quasi-judicial powers.

At the present time, however, the Commission exercises only its quasi-judicial powers, and these to only a limited degree. As set forth in the law (Section 87-107, R.C.M. 1947) this includes only hearings of appeals of decisions made by the Commission's appeals referee on disputes concerning benefits and contributions for the unemployment compensation program (which it must be noted is only one portion of one of seven program administered by the Commission's administrative divisions). The Commission does not make or approve any policy, and does not handle any administrative matters. The Commission meets once a month to hear appeals (about 4 per meeting is the average) and issue final decisions in matters of disputes concerning unemployment insurance.

At the present time, policy for the administration of all of the agency's programs is set in the form of minimum standards of performance and administrative procedures by the United States Department of Labor, which, by means of federal grants, funds the entire operation of this agency. Policy, above and beyond but not in conflict with the minimum standards, for the specific local implementation needs of each program is developed and promulgated, with the approval of the Executive Director, by the directors of the Unemployment Insurance and Employment Service Divisions. Day by day supervision of the administration of all programs is handled by the Division directors, under the supervision and with the approval of the Executive Director. Both expenditures of funds and operating procedures are audited annually by the United States Department of Labor in order to insure strict compliance with the federal directives, rules and regulations. This compliance, in all matters, is required as a condition of state participation in federal grant moneys.

As mentioned above, this agency is composed of two major divisions: Employment Service and Unemployment Insurance.

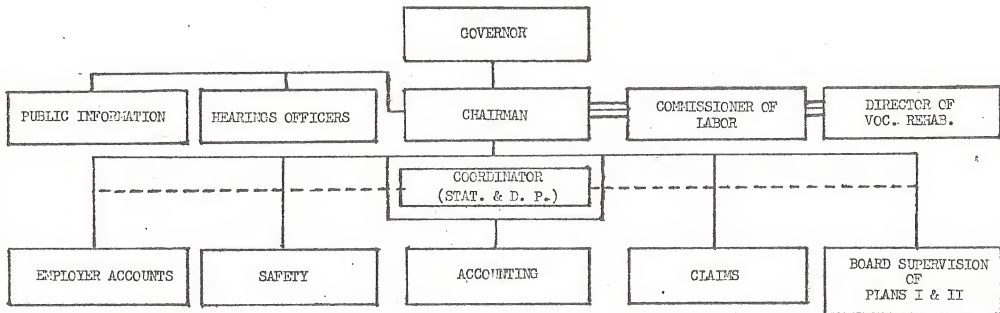
Under the administrative supervision of the Executive Director, the Employment Service Division performs the following duties:

1. Furnishes employers with qualified and satisfactory workers.
2. Assists employers in utilization of available labor supply.
3. Arranges to secure skills and talents of workers not available in local labor supply.

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\*Note: It might be noted that the Unemployment Compensation Law deals specifically only with the state's unemployment compensation program. The law itself says virtually nothing about employment services, and absolutely nothing about the other federal programs which this agency administers.

INDUSTRIAL ACCIDENT BOARD  
ORGANIZATIONAL CHART



4. Secures suitable jobs promptly for each work applicant.
5. Maintains channels of recruitment and information to assist workers in discovering work in other labor markets when the home field provides insufficient labor demand.
6. Assists applicants by means of tests, counseling, and conferences to find work to which they are best suited.
7. Provides continuing assistance to handicapped applicants in securing employment opportunities.
8. Promotes the employment and re-employment of veterans in accord with preferential objectives.
9. Compiles, summarizes and distributes pertinent and useful labor market information on a local, area, state and national scale.
10. Develops community aid in furthering employment stability and utilization of the labor supply.
11. Receives and forwards unemployment insurance claims and claim facts for work applicants during periods of unemployment.

The Unemployment Insurance Division provides benefits to eligible unemployed men and women (including federal employees and ex-servicemen) in order that their income might be maintained, the economy stabilized, and the labor force turnover reduced. Under the administrative supervision of the Executive Director, the Unemployment Insurance Division performs three major functions:

1. The collection and recording of contributions from all employers subject to the Unemployment Compensation Act, which involves the determination, by means of reports, field visits and audits, whether the employer is liable under the act, and the amount of liability.
2. The maintenance of wage data concerning all individual workers employed by employers subject to the law by means of reports, field visits and audits, and an extensive numbering system involving almost all gainfully employed individuals in the state.
3. The disbursement and recording of weekly benefits to all workers unemployed through no fault of their own, who are entitled to such benefits by reason of their past work experience with subject employers, involving the determination of benefit rights and amounts for individual claimants.

The administrative, legal, and information and training units render support assistance to the two major divisions in order to facilitate their functioning and to avoid duplications of effort between the two divisions.



The Employment Service Division operates 24 local offices and has contact points and affiliated offices in all parts of the state. The Unemployment Compensation Division maintains a field force for auditing the records of employers and for investigating benefit claims about which some questions have arisen.

At the present time, the agency's divisions administer seven programs--the Unemployment Insurance and Employment Service program; the Manpower Development and Training program; the Concentrated Employment program; the Job Corps Referral program; the Cooperative Area Manpower and Planning System Administration program; the Work Incentive program; and the MDTA Labor Mobility program. A more detailed description of each is what follows.

#### Unemployment Insurance and Employment Service

The program of Unemployment Insurance and Employment Service was established in this state in 1937 through the provisions of the Unemployment Compensation Act. The general purpose of this program is to provide for the maintenance of social security and stability with respect to employment. For the purpose of adequate description, this program may be divided into two areas: Employment Service and Unemployment Insurance.

#### Employment Service

The Employment Service program is administered by the Employment Service Division. Support work for this program is provided by the administrative, legal and information and training units.

The Employment Service program generally provides a community manpower service by 1) obtaining jobs for persons seeking employment; 2) providing qualified and suitable workers for employers having jobs to offer; 3) developing programs to resolve employment, unemployment and manpower utilization problems; 4) providing special counseling and testing services to employers, employees, individuals and community groups; 5) providing labor area information and market analysis upon request to any interested parties; and 6) providing recruitment and other services for farm placement programs and other special applicant programs (older workers, youth, handicapped etc.).

During the past biennium, the Employment Service Division registered 110,247 new job seekers, conducted 41,490 counseling interviews, made 68,524 industrial job placements and 56,871 agricultural job placements and conducted 42,202 employer visits.

#### Unemployment Insurance.

The Unemployment Insurance Division administers a statewide Unemployment Insurance program which involves the payment of insurance benefits to eligible individuals and a collection of taxes from Montana employers who are subject to the Unemployment Compensation Law. The Unemployment Insurance Division administers three Unemployment Insurance programs: 1) Unemployment Insurance (UI);

- 2) Unemployment Compensation for Federal Employees (UCFE); and
- 3) Unemployment Compensation for Ex-Servicemen (UCX).

During the past biennium, the Unemployment Insurance Division of the Employment Security Commission received 41,614 initial UI claims, continued 362,371 UI claims, received 15,226 UCX claims, and 20,911 UCFE claims. During the past biennium, the Unemployment Insurance Division paid \$10,364,916 for UI, \$684,371 for UCFE, and \$513,429 for UCX.

During the past biennium, \$5,654,587 was expended for the administrative and operating costs for the program of Unemployment Insurance and Employment Service. Approximately 290.8 full-time personnel are employed to administer this program.

#### Manpower Development and Training Program

The Manpower Development and Training Program is administered by the Employment Service Division. This program has as its primary purpose the provision of occupational training for those unemployed and underemployed persons who cannot reasonably be expected to obtain full-time employment without training. During the past biennium, the Employment Service Division, under the Manpower Development and Training Program, conducted 7,009 screening interviews, 4,605 counseling interviews, 4,311 counseling interviews during training and administered 2,270 tests. There were 901 persons enrolled in training program under this program and there were 450 non-agricultural and 56 agricultural placements made from program trainees by the Employment Service Division.

It might be noted that the Employment Service Division is responsible only for the screening, counseling, testing and referral of MDTA applicants. The training services for those participating in the program are provided by the Department of Public Instruction in cooperation with the Employment Service Division.

During the past biennium the administrative expenses for this program totaled \$238,210, and retraining and benefit allowance expenditures totaled \$1,043,080. The Employment Service Division employs 14.7 full-time personnel to administer this program.

#### The Concentrated Employment Program (CEP)

The Concentrated Employment Program was established in 1967 by administrative action of the United States Department of Labor to concentrate public and private resources in a comprehensive manpower program in selected, economically distressed areas. The Concentrated Employment Program projects are planned and carried out by local sponsors in selected "target areas" that contain a significant concentration of unemployment and underemployment and that offer the hope that a concentrated, full-scale attack can substantially improve the economic circumstances of the residents.

There is no standard method of operation for Concentrated Employment Program projects. Plans are developed by the sponsor (who is selected by the United States Department of Labor upon proper application) to meet the specific local needs.

The Employment Service Division is responsible by means of contracted service agreements to cooperate with the local concentrated employment sponsors and to provide placement, counseling, testing and outreach services upon request. In addition, the Employment Service Division pays, through the local sponsors, medical, training, and other expenses in limited amounts to persons qualified under this program.

During the six month period from December 1968 to June 1969 there were 123 persons enrolled in training under the Concentrated Employment Program, 494 counseling interviews were conducted and 66 non-agricultural placements were made by the Employment Service Division.

During the past fiscal year (1969) administrative costs for this program totaled \$94,381, and \$48,358 was paid in allowances and benefits to persons qualified under this program. The Employment Service Division employs 41 full-time personnel for the administration of this program.

#### Job Corps Program

The Job Corps program, as administered by the United States Department of Labor, is a voluntary, national training program for young men and women 14 through 21 years of age who are out of school, out of work, and live in impoverished surroundings. In a new environment, the Job Corps program offers these young people the needed training to develop their potential and to build self-confidence.

The Employment Service Division is generally responsible to recruit and screen applicants for the Job Corp program and to assist Job Corp graduates in finding suitable jobs.

During the past biennium there were 437 enrollments in the Job Corps program in Montana. The Employment Service Division conducted 877 counseling interviews, made 47 referrals to training, 148 non-agricultural placements and 27 agricultural placements.

During the past biennium \$78,580 was expended by the Employment Service Division for the administration of this referral program. The Employment Service Division employs 4.6 full-time personnel to administer this program.

#### The Cooperative Area Manpower Planning System Administration Program

The Cooperative Area Manpower Planning System was instituted by a federal Executive Order # 11422 on August 15, 1968 to provide a system of cooperative planning for government sponsored manpower training programs.



The Employment Service Division is generally responsible to assume a leading role in the formation of state and local (area) CAMPS committees, which will gather labor market information and plan the utilization of available programs and resources during each fiscal year.

In the past fiscal year (1969) the Employment Service Division expended \$15,874 for the administrative expenses of this program. The Employment Service Division employs 2 full-time personnel to administer the CAMPS program.

#### The Work Incentive Program (WIN)

The Work Incentive program is administered on the state level by the Employment Service Division. This program is directed exclusively to welfare recipients covered by Aid to Families with Dependent Children (AFDC). Its goal is to move men, women, and out-of-school youth, age 16 or older, off the welfare rolls into meaningful, permanent employment.

During the six month period from December 1968 to June 1969 the Employment Service Division enrolled 492 persons in training under this program, conducted 1,628 counseling interviews and made 77 non-agricultural placements.

During the past fiscal year (1969), \$41,909 was expended for administration and \$28,479 was expended in allowances and stipends. The Employment Service Division employs 18 full-time personnel to administer this program.

#### MDTA Labor Mobility Demonstration Projects- Relocation Assistance Allowances

The Employment Service Division cooperates with the Secretary of Labor in the development and execution of "pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs designed to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses" (Section 104 of the Manpower Development and Training Act of 1962). The purpose of this experimental work is to help Congress determine the advisability and nature of any future program of financial assistance for relocating unemployed workers.

The general purpose of this program is: 1) to provide grants and/or loans to involuntarily unemployed workers to help finance their relocations from areas with no job opportunities to areas of labor demand; and 2) to obtain specific information as to the success of the program, techniques to be used, services to be provided etc.

During the past six months the Labor Mobility Demonstration Project No. 4 has conducted 20 pre-employment interviews and has made 44 worker relocations.

During the past biennium the Employment Service Division expended \$83,819 for the administration of this program and \$81,342 for relocation allowances. The Employment Service Division employs 3.0 full-time personnel to administer this program.

In the performance of its duties the Employment Security Commission is advised and assisted by the Advisory Council to the Employment Security Commission, the Joint Merit System and the United States Veterans Employment Service.

The Employment Security Commission's Administrative Divisions generally cooperate with any agency, federal, state or local that can provide any needed manpower services. Some of these relationships are statutory, some are contracted formally, some are informal on a state level through letters of operational agreement and some are informal on a local level through verbal agreements. Specifically, relations with other agencies can be summarized as follows:

--The Employment Service Division is required by law to cooperate with the United States Department of Labor in administering the Work Incentive program and to accept for training referrals made by the State Department of Public Welfare.

--The Employment Service Division is required by law to cooperate with the State Department of Public Instruction by referring qualified applicants under the MDTA program to instructional programs administered and funded by the Department of Public Instruction.

--Under Concentrated Employment Program policy and by means of a formal contractual agreement the Employment Service Division provides manpower programs and services to the Concentrated Employment Program sponsored by the Butte-Silver Bow Anti-Poverty Council.

--In addition to these specific relationships defined under specific programs by means of federal or state statutes or federal administrative directives, the agency is allowed to develop formal (contracted) and informal (letters of operational agreement and verbal agreement) relationships with numerous other agencies and organizations federal, state and local, governmental and private. These include community action committees, labor unions, employer organizations, legal-aid services, the Division of Vocational Rehabilitation etc. The development of these relationships is greatly influenced by the state CAMPS committee, which is composed of representatives of both state and federal agencies.

--The Employment Security Commission is represented on the Emergency Resource and Planning Committee, the Human Resources Council, the Commission on the Status of Women and the Advisory Council for Vocational-Technical Education.

## INDUSTRIAL ACCIDENT BOARD

### Organization

The Industrial Accident Board\* was created in 1915 to administer and enforce the provisions of the Workmen's Compensation Act (Title 92, R.C.M. 1947), as provided in Title 92, Chapter 1, R.C.M. 1947. Since its inception, the Board's powers have expanded to include the administration and enforcement of the provisions of the Montana Safety Act (Title 41, Chapter 17, R.C.M. 1947); the Volunteer Firemen's Compensation Act (Sections 11-2020 through 11-2031, R.C.M. 1947); the Public Welfare Act, Part Nine - Silicosis Compensation - (Title 71, Chapter 10, R.C.M. 1947); Boiler and Mines Inspectors (Sections 50-901 through 50-906, R.C.M. 1947); the Coal Mining Code (Title 50, Chapters 4 and 5, R.C.M. 1947); the Quartz Mining Code (Title 50, Chapter 1, R.C.M. 1947 and Sections 94-35-125 through 94-35-136, R.C.M. 1947); Boiler Inspection-Engineer's License Code (Title 69, Chapters 15 through 17, R.C.M. 1947 and Sections 94-35-212 through 94-35-214, R.C.M. 1947); and Registration of Alien Employees (Title 41, Chapter 6, R.C.M. 1947).\*\*

The Industrial Accident Board consists of three members (Section 92-104, R.C.M. 1947), two of whom are ex-officio, the Commissioner of Labor and Industry\*\*\* and the Director of the Division of Vocational Rehabilitation.\*\*\*\* The third member, appointed to a four year term

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\*Note: Although Section 92-104, R.C.M. 1947 provides that the Industrial Accident Board be composed of three members, the agency has been expanded pursuant to Section 92-113, R.C.M. 1947 ("The board shall employ such assistants and other employees as it may deem necessary to carry out [the duties assigned to it by law].") into a departmental-like organization (see also, attached organizational chart), employing some 60 personnel. In order to eliminate confusion, therefore, the Commission staff has taken the liberty, for the purposes of this report, to designate references to the three member Board by the terms "Industrial Accident Board" or "Board," and references to the administrative organization under the direction of the Board by the terms "Industrial Accident Department" or "Department".

\*\*Note: Though the Department is required by law to yearly register alien employees in this state this function has not, according to the Board secretary, been performed for at least thirty years.

\*\*\*Note: The Commissioner of Labor and Industry is appointed by the Governor to a four year term, subject to the confirmation of the Senate.

\*\*\*\*Note: The Director of the Division of Vocational Rehabilitation is appointed to an unspecified term by the State Board of Education.

by the Governor, by and with the consent of the Senate, serves as Chairman of the Industrial Accident Board and Executive Director of the Industrial Insurance Fund (the state plan of workmen's compensation insurance). The Commissioner of Labor and Industry and the Director of the Division of Vocational Rehabilitation receive no compensation for the duties performed by them as members of the Industrial Accident Board. The Chairman is a full-time employee and receives an annual salary for his services. The Industrial Accident Board meets weekly (though a regular meeting schedule is not required by law, but is up to the discretion of the Board).

The powers and duties of the Industrial Accident Board, as prescribed by law, are:

- I. Policy formulation by means of order, directive, decision, rule or regulation:
  - A. Plan I Workmen's and Occupational Disease Compensation
  - B. Plan II Workmen's and Occupational Disease Compensation
  - C. Plan III Workmen's and Occupational Disease Compensation
  - D. Referral for Vocational Rehabilitation
  - E. Second Injury Compensation
  - F. Industrial Safety
  - G. Silicosis Compensation
  - H. Volunteer Firemen's Compensation
  
- II. Adjudication:
  - A. Conducting hearings and making decisions by issuing orders on awards for workmen's compensation; second injury compensation; occupational disease compensation; silicosis compensation and volunteer firemen's compensation.
  
  - B. Conducting hearings and making decisions by issuing orders for the enforcement of the industrial safety laws.

Though, as outlined above, vested in the three-member Board itself, policy for the administration of the above listed programs is in fact formulated by the Chairman, or, at the discretion and with his approval, by his administrative assistant, the coordinator, or, in some instances (generally those involving the more specific duties), by the Division directors; and is then formally approved by the Board. Board approval, it must be noted, is in all instances nothing more than formal concurrence to what has already been formulated by the Chairman or his designee in the Department. It should be noted that the Board, through the Chairman, has issued formal Rules of Procedure and Medical Service Rules for Workmen's and Occupational Disease Compensation. In addition, the Board, through the Chairman and the Department of Safety, has issued numerous sets of safety codes for various industries. There is no formal Board policy for Referral for Vocational Rehabilitation, Second Injury Compensation, Silicosis Compensation and Volunteer Firemen's Compensation.



In matters of adjudication with respect to the various types of compensation the Board is empowered to: 1) hear disputes of valid controversies (note: the Chairman determines the validity of a controversy); and/or 2) issue orders awarding (in a specified amount to be paid in specified installments for a specified time) or denying compensation. Though vested by law with the power to hear controversies in matters of compensation, the Board itself never actually exercises this power. In fact, hearings are conducted by two hearings officers and the Chairman. On the average, the hearings officers will hear about 300-400 disputes a year, and the Chairman about 50. In the matter of issuing orders, the Board itself never decides what specific order, or the terms thereof, will be presented to them for approval. Rather, the orders are drafted by the Chairman and presented in final form (that is, everything is set down on the order form except the Board's signatures) to the Board at its weekly meetings (50-70 orders for compensation are presented at each meeting) and are signed into effect, if approved. Only about one per cent of the orders, as estimated by the Chairman, are ever refused approval by the Board, and in all cases this is done only on the recommendation of the Chairman. This one per cent includes only orders for compromise settlements where the Board does not approve of the amount or the terms of the compromise. The Chairman, it must be noted, may reject a request for a Board order on procedural grounds. About ten per cent, as estimated by the Chairman, of requests for Board orders are denied by the Chairman on the basis of procedural errors and/or omissions.

In matters of adjudication with respect to industrial safety the Board is empowered to: 1) issue orders to enforce the industrial safety laws; and 2) hold hearings at the request of effected parties to determine the justification, or lack thereof, of issuing enforcement orders. As in the case of compensation, enforcement orders drafted by the Chairman are presented to the Board for its approval. A presented order has never been denied approval by the Board. During the past fiscal year (1969) the Board approved one order for the enforcement of the industrial safety laws. Hearings, if requested, are conducted by the Chairman or the Safety Director. No hearings on industrial safety matters were held during the past fiscal year.

At its weekly meetings the Board spends about ninety per cent of its time approving orders for compensation. The remaining ten per cent of its time is spent approving policy that has been formulated by the Chairman or his designee in the Department.

It might be noted that the primary concern of the Commissioner of Labor and Industry with respect to his position as a Board member is to see that the child labor laws with respect to hazardous employment are not being violated. The primary concern of the Director of the Division of Vocational Rehabilitation is to see that injured workmen are properly referred to his agency for rehabilitation services.

In the performance of the duties described above the Board is directly assisted by the two hearings officers, the Board secretary (eight per cent), the Board stenographer (forty per cent) and the claims supervisor of Plans I and II.

In order to perform the myriad duties assigned to it by law, the Industrial Accident Department has been organized in accordance with four main headings, which include five administrative divisions. The four main headings are Safety, the State Fund, the Board\* and Administration. The corresponding administrative divisions are the Department of Safety (Safety), the Accounting Division (Administration, State Fund, Board), the Claims Division (State Fund), the Employer Accounts Division (State Fund), and the Division for Supervision of Plans I and II (Board). (cf. attached organizational chart)

The offices of the Industrial Accident Board and Department are located at 815 Front Street, Helena, Montana 59601.

In the performance of its duties the Industrial Accident Board is advised and assisted by the following:

- 1) The Advisory Committee on Boiler Rules (permanent)
- 2) The Board of Examiners for Applicants for Coal Mine Inspector, Foreman and Examiner (permanent)

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\*Note: In this specific instance, the term "Board" does not refer to the three member Industrial Accident Board. Rather, the term is used by Board employees to designate an operative part of the Industrial Accident Department. The term is used in this manner nowhere else in this report. Furthermore, the "four main headings" referred to here will not be used elsewhere in this report, because they do not describe the Industrial Accident Department's functions in a clearcut and distinctive manner. For this reason, the Commission staff has taken the liberty of preparing this report on a program (function) basis in which descriptions are given in terms of the five administrative divisions, which more precisely portray the functions of the Industrial Accident Department.

- 3) The Attorney General (Section 92-120, R.C.M. 1947)\*
- 4) The Advisory Committee on Workmen's Compensation (at the pleasure of the Governor)
- 5) The Power Line Construction Code Committee (temporary)
- 6) The Medical Panel for Occupational Disease Examination (permanent)

#### Funding and Personnel

The Industrial Accident Board through the Department administers six non-general fund accounts and one general fund account. The six non-general fund accounts are: the Industrial Accident Administration Earmarked Revenue Account; the Industrial Accident Liquidation Agency Account; the Occupational Disease Agency Account; the Industrial Accident Agency Account and the Industrial Accident Second Injury Agency Account. The Legislative general fund appropriation is for the Silicosis Compensation program administered by the Industrial Accident Department.

The operating and administrative expenses of the Industrial Accident Department are paid from two sources; the Industrial Accident Administration Earmarked Revenue Account and the general fund legislative appropriation for the Silicosis Compensation program. Generally, payments of benefits and compensation are made from the other five non-general fund accounts and the general fund legislative appropriation for the Silicosis Compensation program.

During the past biennium the total expenditures of the Industrial Accident Department, including payments of compensation and medical benefits, purchase of investments and administrative costs, were \$19,963,808. Revenues, including premiums, fee collections, legislative appropriations and interest on investments totaled \$19,550,383. Expenditures exceeded revenues by \$413,425; however, it must be noted that expenditures for the purchase of bonds and FHA Mortgages\*\*during the past biennium far exceeded

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\*Note: On rare occasions the Attorney General's opinion on the interpretation of sections of the law has been requested by the Industrial Accident Board. Legal counsel for the Industrial Accident Board is provided through the fee counsel system.

\*\*Note: A more detailed description of the Industrial Accident Department's investment process will be set forth in a staff report on the investment activities of all state agencies.

this figure. Seen in this light, administrative expenditures may be said not to have exceeded revenues.

Of these sums, \$1,276,114 was collected in revenue for the Industrial Accident Administration Earmarked Revenue Account, and \$1,231,457 was expended by the Industrial Accident Department from this account, leaving a balance in the account of \$44,657. Also during the past biennium, \$10,573 was deducted from the silicosis program appropriation to defray the administrative expenses of that program. The total revenue for the payment of administrative expenses of the Industrial Accident Department during the past biennium was \$1,276,114. Expenditures for administrative costs during the same period totalled \$1,242,030. Revenues exceeded expenditures by \$34,084.

A more specific description of the other five non-general fund accounts of the Industrial Accident Department and the legislative appropriation from the general fund for the silicosis program is contained in the text of the program inventories of this report. The reason for this is that these funds are not used for the administrative operation of the Industrial Accident Department, but rather are one of the reasons why the Department operates.

At the present time the Industrial Accident Board employs sixty-one full time personnel to assist the Board in the performance of the duties assigned to it by law. This figure includes the Chairman of the Industrial Accident Board; the coordinator-statistician; the Board secretary; the Board stenographer; two hearings officers; the public information director; eight employees for the Supervision of Plans One and Two; fourteen members of the Claims Division; seventeen members of the Department of Safety; nine members of the Employer Accounts Division; and six members of the Accounting Division. In addition, the Board employs two part-time employees on the student Work-Study Program (15 hours per week, full-time during the summer months) and two physicians (8 hours per month - \$3,000.00 per year) in an advisory capacity.

#### Description of Programs\*

##### Industrial Compensation

For the purposes of this report the program of Industrial Compensation is divided into four parts: Workmen's Compen-

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\*Note: The individual programs described in this report on the Industrial Accident Board were defined by the Commission staff with the consent and approval of the Chairman of the Industrial Accident Board.

sation (industrial accident compensation); Occupational Disease Compensation; Vocational Rehabilitation of Injured Workmen; and Second Injury Compensation.

#### I. Workmen's Compensation

General. The Workmen's Compensation Act (Title 92, Chapters 1 through 11, R.C.M. 1947) is administered by the Industrial Accident Board through the Department as provided in Title 92, Chapter 1, R.C.M. 1947.

The Workmen's Compensation Act Requires that every employer who has employees engaged in hazardous industries, as designated by the Board and defined in Title 92, Chapter 3, R.C.M. 1947, enroll under the Act to protect these employees in the event of industrial injury. The Act further provides (Section 92-201, R.C.M. 1947) that any employer regardless of the hazard of the employment, who does not cover his employees under the provisions of the Act, is subject to a civil suit in the courts by an employee who is injured through the fault of the employer, and in the civil suit the employer shall not have available to him the defense of contributory negligence, negligence by a fellow employee or assumed risk to the employment in which the employee was engaged.

The only employers exempt from the provisions of the Workmen's Compensation Act are those engaged in various classes of agriculture such as farming, stock raising, horticulture etc. These employers may, however, voluntarily elect to insure their employees in the same manner as non-exempt employers do.

Both employers and employees benefit by enrollment under the Workmen's Compensation Act. Employers are protected from possible liability in the event of accidental injury to an employee (Title 92, Chapter 6, R.C.M. 1947). The employer (and his heirs and benefactors) is assured of medical care and hospitalization for the treatment of his injuries at no expense to himself and a weekly loss of income benefit to the limit provided by the Act (Title 92, Chapters 5 and 7, R.C.M. 1947).

The Act provides three methods (plans) by which employees may come within its provisions.

Plan One is the so-called self-insurance plan (Title 92, Chapter 9, R.C.M. 1947) and may be adopted by any employer only if he furnishes convincing proof to the Industrial Accident Board of his financial ability to

assume the obligation to pay all the benefits provided by the Act. Most often, the self-insurer will re-insure with a private insurance company for liabilities in excess of \$10,000.

The second method is known as Plan Two (Title 92, Chapter 10, R.C.M. 1947). It provides for insurance of the employees by a casualty insurance company authorized to write workmen's compensation insurance in this state.\*

The Industrial Accident Board through the Department has supervisory\*\* power over the operations of Plan One and Plan Two.

The third method of insurance is known as Plan Three (Title 92, Chapter 11, R.C.M. 1947), which is the state compensation insurance program, and is administered and operated by the Industrial Accident Department. All employees who do contract work for the state or one of its political subdivisions are required to insure under Plan Three. The state compensation insurance plan is obligated by law to furnish coverage for state government and for counties, cities, school districts and all public corporations. It is also obligated by law to accept any employer risk, regardless of whether or not such a risk is insurable or uninsurable by reason of excessive hazard or other causes.

Compensation (under any of the three plans) is payable to an injured employee for temporary total disability during his recovery period. Additional compensation is payable for permanent partial or permanent total disability should physical impairment result from the injury. The maximum period of compensation payable to an injured workman is 500 weeks. Widows and dependent children are entitled to compensation for a maximum of 600 weeks or until the widow should re-marry or the children reach the age of eighteen. The legislature has recently amended the Act to allow payment of compensation to children until they reach the age of twenty-one years if they are attending college. The maximum weekly compensation payable under the present law is \$60.00 per week, and the minimum is \$34.50 per week.

Medical benefits are payable in addition to compensation as a benefit separate and apart from compensation. Benefits run 36 months from the date of injury and have an initial limitation of \$5,000. Provision is made for

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\*Note: These casualty insurance companies are subject to the general insurance company requirements of Title 40, R.C.M. 1947, as administered by the state Auditor, who is Commissioner of Insurance, ex-officio. Those casualty insurance companies specifically authorized to write workmen's compensation insurance are, in addition, required by Title 40, Chapter 56, R.C.M. 1947 to be members of rating organizations designed to establish uniformity of rates for workmen's compensation insurance.

\*\*Note: Supervisory power in this instance, consists generally in regulating the employer-employee relationship with respect to Workmen's Compensation, and adjudicating disputed claims.

the allowance of additional amounts, but in all cases medical benefits expire 36 months from the date of injury. An injured employee may go to a doctor of his own choice. Generally, treatment is allowed by one doctor only at a time, but upon request the Board will allow treatment by other doctors, such as specialists. If a doctor prescribes a back brace or other such appliance it will be paid for under the plan. Artificial limbs are provided and replaced every five years.

Presently, 65 employers are registered under Plan One, 7,071 under Plan Two and 8,031 are under Plan Three. Last year, over 22,000 industrial accidents were reported to the Industrial Accident Department and more than 5,000 claims were filed. Over \$6 million is paid out annually for compensation benefits, with an additional \$3 million paid annually for hospital, medical and burial benefits.

Generally, Workmen's Compensation is designed to provide immediate relief to an injured workman in the form of cash benefits and medical attention. To these ends, the Industrial Accident Department basically performs two functions: Supervision of Plans One and Two; and the Administration of Plan Three. The following is a detailed description of each.

#### Description.

##### A. Workmen's Compensation: Supervision of Plans One and Two

#### General

Under the direct supervision of the Chairman of the Industrial Accident Board, the secretary of the Board administers the supervision of the operations of Plans One and Two. By law, the Industrial Accident Board acting through the Department is required to supervise and oversee Plans One and Two; to keep a running record of every account, case, claim, accident and payment of compensation; to see that injured workmen insured under Plans One and Two receive their fair due and to insure that Plans One and Two are operating within and in accordance with the Workmen's Compensation Act.

#### Description of Duties

##### 1) Enrollment and Cancellation

The supervision and recording of all enrollments and cancellations under Plan Two is handled by two policy clerks. During the past six months there have been 722 enrollments and 682 cancellations under Plan Two. The supervision and recording of enroll-

ments and cancellations under Plan One is handled by the fiscal officer and his secretary (of the Accounting Division of the Industrial Accident Department). In the past year, three firms have enrolled under Plan One, and three have been cancelled.

## 2) Record of Accidents

One accident clerk receives and audits the accident and medical reports of all accidents occurring under Plans One and Two. The purpose of this is to insure that insurance coverage is proper, adequate and up-to-date. During fiscal year 1969, Plan One reported 3,192 accidents and Plan Two reported 10,690 accidents.

## 3) Filing of Reports

Two file clerks file all cases reported under Plans One and Two. They are also responsible to post and file all payment of compensation forms, to insure that all compensation payments due to injured workmen under Plans One and Two are being promptly and properly paid.

## 4) Industrial Insurance Liquidation

In order that claimants under Plan Two are protected in the event that an insurance company is unable to pay claims for which it is liable, Section 92-1004, R.C.M. 1947 requires that the insurance company deposit with the fiscal officer of the Industrial Accident Department bonds not less than \$5,000 or more than \$20,000, as the Industrial Accident Board may determine. In the event of an inability of an insurance company to pay claims for which it is liable, the Industrial Accident Board may direct the fiscal officer to convert the bonds into cash, and, from the proceeds, liquidate the liability. In 1962, by administrative action of the Industrial Accident Board, the Industrial Insurance Liquidation Agency Account was established to hold the cash derived from the bonds while all outstanding claims are being liquidated. At present, this account holds \$10,793. Since 1962 there have been only three industrial insurance liquidation actions taken by the Industrial Accident Board. It is estimated by the fiscal officer that by June, 1970 this fund (the Industrial Insurance Liquidation Agency Account) will be defunct. Of course, provisions for liquidation actions will remain.

## 5) Supervision and Administration

### a) Supervision

The secretary of the Board spends about 90 per cent of her time overseeing the work of those



employed to supervise Plans One and Two. In addition, a supervisor is employed to audit and oversee all claims made against Plans One and Two and to handle all correspondence between the Industrial Accident Department and Plans One and Two employers.

b) Administration

Two typists are employed to perform general administrative duties (typing, telephone, mail, etc.) for the supervision of Plans One and Two. In addition, the Board stenographer spends 60 per cent of her time performing these duties.

Funding and Personnel

Administrative expenses of the Industrial Accident Department for the supervision of Plans One and Two are paid from the Industrial Administrative Fund.

Supervision of Plans One and Two by the Industrial Accident Department requires the following full-time personnel: a supervisor of claims, two file clerks, two policy clerks, an accident clerk, and two typists. In addition, the following spend part of their time administering this function: the Board secretary (90 per cent), the Board stenographer (60 per cent), the fiscal officer and his secretary from the Accounting Division (amount of time is so small it is inconsequential).

B. Workmen's Compensation: Administration of Plan Three

General

Plan Three Workmen's Compensation is directly administered by the claims manager under the direction and supervision of the Industrial Accident Board Chairman, acting in his capacity as Executive Director of the Industrial Insurance Fund (Plan Three). Plan Three is the state compensation insurance program, the insurance company within the Industrial Accident Department. As mentioned above, all employees who do contract work for the state or one of its political subdivisions are required to insure under Plan Three. The state compensation fund is obligated by law to furnish coverage for state government and for counties, cities, school districts and all public corporations. It is also obligated by law to accept any employer risk, regardless of whether or not such a risk is insurable or uninsurable

by reason of excessive hazard or other causes. The Industrial Accident Department presently holds 8,031 employer accounts under Plan Three Workmen's Compensation.

#### Description of Duties by Division

##### A) Employer Accounts Division

###### General.

The Employer Accounts Division of the Industrial Accident Department was created in 1915 to administer those portions of the Workmen's Compensation Act that pertain to underwriting. These include: the correct enrollment and cancellation of all firms enrolled under Plan Three and the correct placement of all firms in the proper premium category.\*

###### Description of Duties by Personnel

###### 1) Enrollment

One enrollment clerk is employed to handle all requests for enrollment under Plan Three. The enrollment clerk sends standard information packets to potential enrollees, sets up firm accounts and does some follow-up work on requests for billing. On the average there are 82 enrollments under Plan Three per month.

###### 2) Auditing of employers' payrolls

Four field auditors are employed to selectively audit employers' payrolls to make certain that all payrolls are being properly reported, and that both the employer and the Industrial Accident Department will receive their fair due; to determine if employers and employees are properly classified; to insure that the Industrial Accident Department receives the premium they have coming and that the employer is not overpaying his premiums. Each year 4,000 - 4,500 Plan Three firms are audited.

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\*Note: The Industrial Accident Board is required by Title 40, Chapter 56, R.C.M. 1947, enacted in 1969, to be a member of a workmen's compensation rating organization composed of not less than five insurers authorized to write workmen's compensation insurance in this state. The general purpose of this organization is to establish a uniform policy for the determination of rate-making factors, rate standards and premium categories for workmen's compensation insurance.

### 3) Cancellation

a) One cancellation\* clerk is employed to check for delinquent payrolls and to determine the length of time these payrolls are delinquent; to set up a cancellation date and provide all correspondence, information and forms necessary for this proceeding. On the average there are 60-70 cancellations per month.

b) One fieldman is employed to contact all companies who have been or are about to be cancelled to attempt to save their account. He also contacts companies who are not covered by the Workmen's Compensation Act to inform them of the benefits of coverage, or to inform them of mandatory coverage. At times he may enroll or re-enroll a company in the field.

### 4) Records

One file clerk is employed to generally attend to all duties involved in keeping payroll files in good order.

### 5) Supervision and administration

One employer accounts supervisor (underwriter) is employed to generally supervise the work done by the Employer Account Division. All secretarial work (phone, mail, correspondence, typing etc.) of this Division is handled by either the enrollment clerk or the cancellation clerk.

## B) Claims Division

### General

The Claims Division of the Industrial Accident Department is responsible to administer all claims for compensation and medical benefits filed by

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\*Note: Cancellation is a process by which an employer's industrial accident insurance is terminated due to failure to pay premiums. Usually, cancellation is a result of the firm's going out of business, changing ownership or changing insurance plans.

injured employees insured under Plan Three Workmen's Compensation. In the processing of claims great care is taken to insure that the payments made are prompt and proper.

#### Description of Duties by Personnel

##### 1) Claims Examination

Three claims examiners are employed to insure that claims under Plan Three are initiated properly and promptly, properly filed and properly paid. The duties pursuant to this position are outlined as follows:

a) The Claims Division employs one claims examiner to review all incoming reports of accidents occurring to workmen insured under Plan Three to determine whether the injury reported is a result of an industrial accident. If the injury is judged to be a result of an industrial accident, then the examiner sends a claim form to the employee and requests the medical opinion of a physician as to the seriousness of the injury.

b) After a claim for compensation and medical benefits under Plan Three has been formally filed it is administered by one of two claims examiners, who are employed to insure that the injured workmen are receiving the proper medical treatment and compensation.

##### 2) Medical Pay Examination

One medical pay examiner is employed to review all medical bills charged to Plan Three to determine whether or not the treatment charged is proper to the accidental injury insured, and also to insure the physician's fees are according to the fee schedule agreed to by the Montana Medical Association and the Industrial Accident Board.

To aid in the proper administration of claims processing, the Claims Division has employed the advisory services of two physicians to advise on matters of medical benefits, to review all questionable cases and generally to help the Industrial Accident Department arrive at a proper decision. One physician is an internist who reviews cases twice

weekly for about one hour at a time. The other is an orthopedist who reviews cases once every two weeks for a full day. These doctors each receive a \$3,000 per year salary.

### 3) Fieldwork

Three field representatives are employed, each charged with contacting cases involving serious injuries and extended medical and compensation. These men act as liaison between the claimant and the Fund, advise the injured man of his rights and counsel the claimant in an effort to motivate him to return to his employment after recovery. If permanent disability results, limiting his employment, they also work directly with the claimant and the Department of Vocational Rehabilitation to assist in rehabilitating him to work he can perform.

These men are also responsible for the investigation of doubtful or disputed cases to enable the Fund to accurately assess the compensability of the case and establish accurate medical and compensation reserves.

Each field representative also has the duty to follow every problem case through to finalization by personal contact, including final settlement after medical evaluation reports have been submitted.

### 4) Supervision and Administration

#### a) Supervision

The claims manager is employed to generally supervise the operations of the Claims Division. He is responsible to make all decisions on "grey area" matters presented to him by the claims examiners or the fieldmen. Also, he conducts training sessions for the examiners and the fieldmen to acquaint them with recent decisions of the Supreme Court on matters involving the Workmen's Compensation Act. Finally, he does extensive work in the field attempting to educate employers, employees and any other interested parties concerning the functions and operations of the Industrial Accident Department with respect to Workmen's Compensation.

b) Administration

The Claims Division employs one clerk typist to do typing and answer the telephone; one stenographer to do dictation; one check writer to set up warrants for payment for IBM runs; two file clerks to insure that the files are up-to-date and properly maintained; and one accident clerk to insure that Plan Three coverage is proper and up-to-date.

C. Accounting Division

General

The Accounting Division of the Industrial Accident Department was created in 1915 to administer all Industrial Accident Department funds (income, expenditures, appropriations, budgets, etc.). The functional duties of this division are divided between the programs of Compensation, Administration, Volunteer Firemen's Compensation, and Silicosis. Those duties pertaining to Workmen's Compensation Plan Three are outlined below.

Description of Duties by Personnel

1) General Accounting

Ninety-eight per cent of the time of the division's accountant is allocated to Plan Three. The accountant is in charge of all accounts receivable (premiums, fund transfers, refunds etc.) to the Industrial Insurance Fund, prepares monthly statements, balances the premium journal monthly and bi-monthly processes all checks for data processing.

2) Payments

The cashier of the Accounting Division is employed to record and disburse all payments (compensation, medical, burial, transfer etc.) made from the Industrial Insurance Fund.

3) Supervision and administration

Ninety per cent of the time of one typist is employed typing requests for the accountant

and the cashier. Thirty-five per cent of the time of the fiscal officer (Division Supervisor) is spent supervising the operation of the Industrial Insurance Fund. Thirty-five per cent of the time of the fiscal officer's secretary is spent doing general administrative duties (typing, phone, dictation, mail etc.).

#### Funding and Personnel

The funding for the administration of Plan Three Workmen's Compensation is divided into two parts: funding for payments of compensation and medical benefits; and funding for administrative costs.

#### A. Compensative and Medical Benefits: The Industrial Accident Insurance Fund

The Industrial Accident Insurance Fund pays claims for compensation and medical benefits made by injured workmen insured under Plan Three. This fund also pays a portion of the administrative costs of the Industrial Accident Department, as provided in Section 92-116, R.C.M. 1947. In addition, these funds pay vocational rehabilitation costs of those covered under Plan Three, as provided in Title 92, Chapter 14, R.C.M. 1947. Revenue for the Industrial Insurance Fund is derived from premium assessments on employer's payrolls (i.e. those insured by Plan Three) and from interest on investments.

#### Statement of operation of Industrial Insurance Fund for past biennium:

I.	Total Value of fund as of 6/30/69:	\$14,110,968.11
II.	Receipts of income during past biennium:	\$17,452,360.98
III.	Disbursements during past biennium:	
	A. Compensation	\$6,355,250.29
	B. Medical	<u>\$2,652,098.96</u>
	Total Compensation and Medical	\$9,007,349.55
	C. Other	
	1. Refunds (overpayments)	\$ 304,569.63

2. Dividends*	\$2,020,985.76
3. Purchase of Bonds	\$ 5,518,250.60
4. Purchase of FHA Mortgages	\$ 194,024.98
5. Vocational Rehabilitation Payments	\$ 55,456.93
6. Industrial Administrative Fund Assessment	<u>\$ 727,944.32</u>
Total Other	\$ 8,821,232.22
Total Disbursements	\$17,828,581.77

B. Administrative expenses

All administrative expenses for the operation of Plan Three Workmen's Compensation are paid from the Industrial Administrative Fund.

The operation of Plan Three Workmen's Compensation requires the following personnel: 1) Employer Accounts; a supervisor, an enrollment clerk, a cancellation clerk, a file clerk, four field auditors, and a fieldman. 2) Claims; a claims manager, three claims examiners, one medical pay clerk, three fieldmen, an accident clerk, a clerk-typist, two file clerks, a stenographer, and a check writer. 3) Accounting; an accountant (98 per cent), a typist (90 per cent), a fiscal officer (34 per cent), and a cashier.

Advisory Committee

The Industrial Accident Board is advised by the Advisory Committee on Workmen's Compensation, which was appointed on the recommendation of the Chairman

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\*Note: Dividends are paid yearly to employers under Plan Three from a surplus in the Industrial Insurance Fund. The Board determines if such dividends will be paid, the amount, and the conditions thereof. As a rule, employers with a loss ratio of less than 85 per cent share in the dividend available, which is based on a flat percentage of the employer's margin.



of the Industrial Accident Board by the Governor by an executive letter dated July 8, 1969. The Committee is composed of nine members representative of labor and management, with the Chairman of the Industrial Accident Board as head. The Committee is generally responsible to review and analyze, on a continuing basis (at the pleasure of the Governor), all aspects of proposed and existing workmen's compensation laws with an end to making suggestions for revisions and amendments to the next Legislature. The first meeting of this Committee was held on October 30-31, 1969. The Committee will continue to meet at least quarterly. The members of the Committee serve without compensation.

#### Relations With Other Agencies

The Department's fiscal officer cooperates with the Board of Land Commissioners when making investments for the Industrial Insurance Account. In practice, these investments are made by the fiscal officer and then formally approved by the Board of Land Commissioners.

Funding and Personnel. All funds for the administration and supervision of Plans One, Two and Three by the Industrial Accident Department are derived from the Industrial Administrative Fund.\*

The supervision and administration of Plans One, Two and Three by the Industrial Accident Department requires a total of 35.73 personnel (F.T.E.) as follows: a supervisor of Plans One and Two Claims, a supervisor of Plan Three Claims, the Board secretary (90 per cent), the Board stenographer (60 per cent), five file clerks, two accident clerks, four fieldmen, two policy clerks, the fiscal officer (35 per cent), an accountant (98 per cent), a cashier, three typists, a typist (90 per cent), four field auditors, an enrollment clerk, a cancellation clerk, an employer accounts supervisor, three claims examiners, a medical pay clerk, a stenographer, and a check writer. These same personnel are involved in the supervision and administration of three additional functions: occupational disease compensation; rehabilitation of injured workmen; and second injury compensation. The duties performed for these functions are minimal; therefore, a per cent breakdown and an enumeration of personnel for the following

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\*Note: Due to the fact that the programs for this report were formulated by the staff, the Industrial Accident Department's fiscal officer was unable to provide a cost estimate by program.

three functions are not included. The time spent by the above personnel administering the following three functions are inconsequential when compared to the time spent administering and supervising workmen's compensation.

## II. Occupational Disease Compensation

General. The Occupational Disease Act, Title 92, Chapter 13, R.C.M. 1947 is administered by the Industrial Accident Board, through the Department, as provided in Section 92-1302, R.C.M. 1947. The purpose of this Act is to provide compensation, burial, medical and hospital benefits to those disabled by those occupational diseases defined in Section 92-1304, R.C.M. 1947. Like industrial accident compensation, the Occupational Disease Act provides for three methods (plans) by which an employer may insure his employees. However, the Occupational Disease Act does not require that Plan Two carriers insure their employees under its provisions. Also, in order to be deemed eligible for payments under the Occupational Disease Act a workman must be declared to be totally disabled by an occupational disease.

Description. The identical administrative practices and procedures used in the supervision and administration of workmen's compensation are employed in the supervision of Plans One and Two and the administration of Plan Three Occupational Disease Compensation. During the past biennium, Plan One reported five (5) cases, Plan Two, one (1) case and Plan Three, one (1) case. Presently there is only one claimant receiving benefits under Plan Three.

Funding and Personnel. The payment of compensation and medical, burial and hospital benefits for claims made by those covered by Plan Three under the Occupational Disease Act are derived from a premium assessment on Plan Three carriers for occupational disease coverage. The revenues from these assessments (the rate and frequency of which are not set by law, but are up to the discretion of the Industrial Accident Board) are deposited in the Occupational Disease Account in the agency fund. During the past biennium revenues, including only interest on investments and cancelled warrants, totalled \$6,572.70. Payments during the same period totalled \$11,317.69. Investments totalled \$81,000.00. As of June 30, 1969, the cash balance in the account was \$159.94. The total worth of the account, including investments, as of June 30, 1969, was \$81,159.94.

Administrative expenses for this function are minimal due to the low number of claims made annually. Any administrative expenses incurred are charged to the Industrial Administrative Fund. Note: Section 92-1302, R.C.M.

1947 provides that payment of the travel expenses of the Industrial Accident Board while on business of administering this act shall be paid from the Occupational Disease Agency Account. However, payments for this purpose have never been made.

The personnel for this function are the same as those for workmen's compensation. No present breakdown or enumeration is possible because the duties are so minimal due to the low number of claimants annually. It might be noted that an increased industrial development in Montana would more than likely frequent the occurrence of occupational diseases and thus increase the Industrial Accident Department's work volume in this area.

Advisory Groups. Section 92-1314, R.C.M. 1947 provides for (1) a medical committee composed of thirty physicians selected by the Montana Medical Association and appointed by the Industrial Accident Board to examine claimants for occupational disease disabilities other than silicosis (Section 92-1315, R.C.M. 1947), and (2) three or more qualified physicians to be known as pulmonary specialists, to examine claimants for compensation for silicosis disability under the Occupational Disease Act (Section 92-1315, R.C.M. 1947). Both of these committees combined are known as the medical panel. Members of the medical panel are paid a fixed fee for their examination services.

Relations With Other Agencies. The fiscal officer cooperates with the Board of Land Commissioners when making investments for the Occupational Disease Agency Account. In practice, these investments are made by the fiscal officer and formally approved by the Board of Land Commissioners.

### III. Rehabilitation of Injured Workmen

General. Under the provisions of Title 92, Chapter 14, R.C.M. 1947, the Industrial Accident Board and/or Department are required to refer permanently disabled workmen enrolled under the Workmen's Compensation Act to the Division of Vocational Rehabilitation for the purpose of rehabilitating these workmen.

During rehabilitation, the workman is entitled to receive payment of the following from funds collected by the Industrial Accident Department: actual and necessary travel expenses from his place of residence to the place of training, and return; living expenses while in training away from home in an amount not in excess of thirty dollars per week; expenses for tuition, books and necessary equipment while in training.

Description. Referrals to the Division of Vocational Rehabilitation are made by the supervisor of Plans One and Two Claims, the Claims Manager and the Industrial Accident Board itself. During fiscal year 1969, 171 referrals were made. Of these, 132 were accepted by Vocational Rehabilitation, of which 19 dropped out of the program. Also during fiscal year 1969 the Division of Vocational Rehabilitation released (as rehabilitated) 56 former Industrial Accident Board referrals.

The Industrial Accident Department's Accounting Division acts as a clearing agent for the payments of expenses due to the injured workmen under this program. This is handled by the fiscal officer and his secretary.

Funding. The payment of benefits for vocational rehabilitation of injured workmen are made from the Industrial Accident Rehabilitation Account in the agency fund, as provided by Section 92-1406, R.C.M. 1947. Revenues for this fund are derived from employers, insurers and the Industrial Insurance Fund in an amount to be assessed by the Industrial Accident Board, but not in excess of 1 per cent of the compensation paid to injured employees during the preceding fiscal year. Moneys collected in this account are transferred yearly to the Division of Vocational Rehabilitation for payments of benefits to injured workmen referred by the Industrial Accident Board (and/or Department). When received by the Division of Vocational Rehabilitation the funds are matched with federal moneys on a 75 federal/25 state basis. (Beginning July 1, 1969 this matching became 80 federal/20 state).

During the past biennium payments totalling \$78,433.05 were made to the Division of Vocational Rehabilitation from assessments against Plan Three (\$55,456.93), Plan Two (\$14,000.00) and Plan One (\$8,976.93).

#### IV. Second Injury Compensation

General. Second injury compensation and the attendant Second Injury Fund from which such compensation is paid was established in 1951 in accordance with the provisions of Section 92-709A, R.C.M. 1947. The purpose of this program is to provide total disability benefits for an injured workman who has lost the use of a second hand, arm, foot, leg or eye. Liability is limited to the second loss only, so that employers would not be discouraged from employing handicapped workmen.

Description. Second injuries occurring under all three compensation insurance plans are reported in standard form to the Industrial Accident Department. When received, these are so designated as second injury accidents and it is indicated that the workman injured is entitled to payments of compensation and medical benefits from the Second Injury Fund. Any claims work necessary is handled by the administration of the insurance plan under which the workman was insured. Presently, two persons are receiving compensation from the Second Injury Fund.

Funding. Originally, second injury compensation was paid by a \$20,000.00 appropriation from the Industrial Insurance Account in the agency fund. This has been repaid. The original appropriation to the Second Injury Fund is supplemented in every instance of the death of an employee under this act (i.e. Workmen's Compensation Act) where there are no beneficiaries entitled to receive death benefits by a \$500.00 payment into the Second Injury Fund. Payments are made by the employer if under Plan One, or the insurance carrier if under Plan Two or the Industrial Insurance Account in the agency fund if under Plan Three. Additional income is obtained from the interest made on investments by the Department's fiscal officer. At the present time the fund, including the investment value, totals \$21,139.27.

Relations With Other Agencies. The Department's fiscal officer cooperates with the Board of Land Commissioners when making investments for this fund. In practice, the investments are made by the fiscal officer and formally approved by the Board of Land Commissioners.

## SAFETY

### Organization\*

The safety program of the Industrial Accident Department is administered by the Department of Safety, as

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\*Note: The Department of Safety is not, strictly speaking, a program of the Industrial Accident Department, but is rather more of an agency within an agency. For the purpose of the form of this report, then, the Department of Safety is considered in some respects as an agency and in others as a program of the Industrial Accident Department.

provided in Section 41-1713, R.C.M. 1947. This department through a grant of authority from the Board is directly responsible for administering the Montana Safety Act (Title 41, Chapter 17, R.C.M. 1947); boiler inspection and engineer's license (Title 50, Chapter 9, R.C.M. 1947); regulation of the quartz mining industry (Title 50, Chapter 9, R.C.M. 1947); and regulation of the coal mining industry (Title 50, Chapter 9, R.C.M. 1947).

The Department of Safety is supervised by a safety director, who is appointed by the Industrial Accident Board, and who must have at least two years' experience or training in the field of industrial safety, as provided in Section 41-1713, R.C.M. 1947.

Offices of the Department of Safety are located at 815 Front Street, Helena, Montana.

The Department of Safety is presently advised by the Advisory Committee on Boiler Rules (permanent); the Board of Examiners for Applicants for Coal Mine Inspector, Foreman and Examiner (permanent); and the Electrical Line Construction Code Committee (temporary).

#### Funding and Personnel

The administrative expenses of the Department of Safety are paid from the Industrial Administrative Fund. Fees collected for boiler inspection and engineer's license are deposited in the Industrial Administrative Fund.

The Department of Safety presently employs 17 full-time personnel. These include: a safety director; a safety supervisor; a logging inspector; two construction inspectors; two general safety inspectors; an oil operations inspector; two quartz mine inspectors; two boiler inspectors; a coal mine inspector; a training and code specialist, a report codifier; a clerk-stenographer; and a clerk-typist.

The Department of Safety receives no federal funds.

## Description of Functions

### A. Administration of the Montana Safety Act\*

General. The administration of the Montana Safety Act is given to the Industrial Accident Board, Department of Safety, by Section 41-1713, R.C.M. 1947. The purpose of this act is to insure that employees maintain reasonably safe and healthful places of employment and to protect the life and safety of every employee in all places of employment.

In the administration of this act the Department of Safety is required to serve all those employments or places of employment designated as hazardous by the Workmen's Compensation Act (Title 92, Chapter 3, R.C.M. 1947). Duties required by this act are performed by safety inspectors under the direct supervision of the safety supervisor.

Description. To the above ends, the Department of Safety performs the following duties:

#### 1. Inspection

The safety inspectors inspect hazardous occupations for unsafe conditions and unsafe acts. A report of each inspection is made; one copy is given to the employee and one copy is filed in the offices of the Industrial Accident Department. In conjunction with this duty, formal surveys of the employer's safety programs are made. Also, all complaints registered to the Department of Safety are checked. Finally, the inspectors are required to make suggestions for safety improvement, and, if necessary, to serve work orders approved by the Industrial Accident Board, as so provided in Section 41-1715, R.C.M. 1947.

During fiscal year 1968, 4,400 inspections, surveys and special contacts (complaints checked) were made, 40 work orders (i.e., an order to shut down or close a particular piece of machinery) were issued and two workmen's compensation premium rate increases were approved.

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\*Note: The Department of Safety of the Industrial Accident Department was created by the Montana Safety Act, primarily to administer the provisions of that Act. However, the Board has granted other powers and duties (mine inspection and boiler and engineer's license) to the Department of Safety.

## 2. Investigation

The safety inspectors investigate all industrial-type fatal accidents and all accidents of a serious nature (this generally includes amputations and severe burns).

During fiscal year 1968 the Department has estimated that approximately 168 investigations were made by the inspectors.

## 3. Education and Training

The Department of Safety conducts training programs, seminars, first-aid courses, safety meetings, etc., to train and educate employers and employees in various aspects of industrial safety.

During fiscal year 1968, 100 first-aid meetings with 600 persons attending were conducted; 270 safety meetings with about 6,000 persons attending were held; and 49 safety films with about 1,300 persons attending were shown.

## 4. Code Making

In Section 41-1727, R.C.M. 1947, the Industrial Accident Board is given the power

...to promulgate, amend, repeal and enforce rules for the prevention of accidents to be known as "safety codes" in every employment and place of employment, including the repair and maintenance of such places of employment, to render them safe. In the performance of its duties the Board may appoint advisory committees to deal with specified industries composed of equal numbers of employers and employees; and others to suggest safety codes or amendments thereunto.

In the performance of these duties the following procedure is used: the Industrial Accident Board appoints a committee, which meets and drafts the initial code. A public hearing is held, objections and approvals are noted. The committee then revises the code as necessary, submits it to the Industrial Accident Board for final approval, and then to the Secretary of State. The code is printed and distributed and becomes effective 30 days after presentation to the Secretary of State.

On the average, about one code per year is drafted and approved.



Funding and Personnel. The administration of the Montana Safety Act is funded through the budget of the Department of Safety, which is derived from the Industrial Administrative Fund.

Seven full-time personnel are employed to perform this function. These include the logging inspector, two construction inspectors, two general inspectors, an oil operations inspector, and a training and code specialist. It is estimated by the safety director that the inspectors spend 50 per cent of their time inspecting, 25 per cent investigating, and 25 per cent conducting education and training programs. The training and code specialist spends 50 per cent of his time preparing and delivering education and training programs and 50 per cent aiding in the preparation of the codes.

In addition to full-time personnel, the following devote part of their time to this function; the coal mine inspector (50 per cent) and the safety supervisor (65 per cent). The coal mine inspector works in oil operations and construction safety. It is estimated that he spends about 25 per cent of his time inspecting and 25 per cent conducting education and training programs. The safety supervisor spends about 10 per cent of his time inspecting, 10 per cent reviewing reports, and 45 per cent conducting education and training sessions.

Advisory Groups. As mentioned above, the Industrial Accident Board has the power to appoint advisory committees to prepare safety codes. These committees are temporary, serving only until their reports are finally approved by the Industrial Accident Board. The committees receive only travel expenses and per diem. As a general rule, they meet about six times per year, one day per meeting. Time expended for preparation of a code varies, usually from one to two years. Membership is also variable usually three to five members. Costs for travel expenses for any given committee are approximately \$1,500 per year. The average cost to the Industrial Accident Department for a complete preparation of a code, including printing costs, is about \$6,000. These funds are derived from the Industrial Administrative Fund. At the present time, the Electrical Line Construction Code Committee is serving in this capacity.\*

#### B. Boiler Inspection - Engineers License

General. These two inter-related functions are given to the Industrial Accident Board in Title 50, Chapter 9, R.C.M. 1947. The Safety Department has been charged with direct supervision of these functions by the Industrial Accident Board. This function is not restricted to the inspection of hazardous industries, as so defined by the Workmen's Compensation Act, as is the Montana Safety Act.

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\*Note: In this regard it should be noted that the Industrial Accident Board is required by Section 24-128, R.C.M. 1947 to prescribe the kinds and qualities of first-aid and protective devices to be used in all electrical stations and shops. This function, however, has never been performed by the Board. Inspection for safety equipment is, as mentioned above, a routine procedure for the Department under the provisions of the Montana Safety Act.

Generally, the performance of this function is governed by Sections 69-1501 through 69-1703, R.C.M. 1947, and Sections 94-35-212 through 94-35-214, R.C.M. 1947.\* The purpose of these functions is to set a uniform safety standard on all steam boilers and fixed pressure vessels so that they might be judged to be safe for operation, and further to insure that all steam boilers and fixed pressure vessels in this state are operated by qualified engineers.

### Description

#### 1. Boiler Inspection

The Industrial Accident Board is empowered to appoint not more than four qualified boiler inspectors. Presently, there are two, under direct supervision of the safety director. These inspectors are required by law to inspect all steam boilers and steam generators in this state at least once each year, or whenever deemed necessary, to insure that they conform to the minimum safety standards for safe operation. Upon completion of inspection the inspector issues a certificate of inspection. The Department of Safety has estimated that during fiscal year 1969, 2,200 boiler inspections were made by the two inspectors.

A boiler inspector is empowered by Section 69-1512, R.C.M. 1947 to collect the following fees for inspection at the time of inspection:

1. Boilers with pressure under 30 pounds per square inch-----\$10.00
2. Boilers with pressure from 30-100 pounds per square inch-----\$15.00
3. Boilers with pressure from 100-300 pounds per square inch-----\$20.00
4. Boilers with pressure over 300 pounds per square inch-----\$30.00

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\*Note: Though almost never used, these criminal code sanctions have been deemed by the safety director to be necessary, for they act as a deterring threat to those who would be otherwise tempted to ignore the provisions of the Montana Boiler Inspection - Engineers License Code. It must be further noted that the Montana Safety Act makes provisions for enforcement by civil suit, but it has not been tested as to whether or not this Act's provisions are supplementary to those of the Criminal Code mentioned above.

5. Miniature boilers with pressure not in excess of 100 pounds per square inch-----\$10.00
6. Steam traction-----\$ 5.00
7. Operating Certificate-----\$ 4.00

## 2. Engineer's License

The boiler inspectors are authorized to examine applicants and grant licenses to engineers who operate steam boilers and steam machinery, to insure that they are competent operators of such machinery. Requirements for the various classes of licenses are provided for in Section 69-1509, R.C.M. 1947. Provisions for grievances and disputes in the manner and procedure of licensing are provided in Sections 69-1513 and 69-1514, R.C.M. 1947. On the average, about 3,200 licenses, new and renewal, are issued each year.

Applicants for engineer's license pay fees according to the class of license for which application is made, as specified in the following schedule (Section 69-1512, R.C.M. 1947)

- 1) First Class-----\$30.00
- 2) Second Class-----\$20.00
- 3) Third Class-----\$12.00
- 4) Low Pressure-----\$ 8.00
- 5) Traction -----\$12.00
- 6) Renewal of License-----\$ 4.00
- 7) Replacement of lost certificate----\$ 2.00

Funding and Personnel. This function is funded through the budget of the Department of Safety, which is derived from the Industrial Administrative Fund.

The revenues collected for license and inspection fees are deposited in the earmarked revenue fund for the payment of the general administrative costs of the Industrial Accident Department. During the past biennium \$44,042.79 was collected for license and inspection fees.

Two full-time boiler inspectors are employed to perform this function. It is estimated by the safety director that about 75 per cent of their time is spent inspecting boilers. The remaining 25 per cent is spent examining applicants for engineer's license.

Advisory Group. The boiler inspectors and the Department of Safety are advised in technical matters by the Advisory Committee on Boiler Rules, as provided in Section 69-1501, R.C.M. 1947. This Committee is composed of three members; one practical steam operating engineer of boilers, one representative of boiler insurance companies licensed to do business in the state of Montana,

and one graduate mechanical engineer. The Committee is empowered by law to act in a technical advisory capacity to the Industrial Accident Board (and/or Department) to formulate definitions, rules and regulations for the safe construction, installations, inspection and repair of fixed pressure vessels. During the past calendar year the Committee has prepared and had approved a booklet entitled, Fixed Pressure Vessels Rules and Regulations.

The members of the Committee serve without salary, but do receive compensation for actual travel expenses. The Committee is required by law to meet at least twice a year; however, it is estimated by the chairman that, due to present workload, the Committee will have to meet from four to five times per year. Expenses for travel are estimated by the Department of Safety to be about \$1,500 per year. Total expenses for the preparation of the above mentioned code, including printing costs, were about \$6,000.

#### C. Regulation of the Coal Mining Industry

General. This function is given to the Industrial Accident Board by Title 50, Chapter 9, R.C.M. 1947. The Safety Department has been charged with the direct supervision of this function by the Industrial Accident Board. This function is not restricted to the inspection of hazardous industries, as defined by the Workmen's Compensation Act, as is the Montana Safety Act. Generally, the performance of this function is governed by Title 50, Chapters 4 and 5, R.C.M. 1947. The purpose of this function is to inspect all coal mines in the state for strict compliance with health and safety standards and to insure that all coal mines are operated within the provisions of the State Coal Mining Code (cited above).

Description. The law requires the state coal mine inspector to inspect all the coal mines in the state at least once every three months, or whenever deemed necessary. There has been no coal mine inspector for the past two years (the previous coal mine inspector retired and the Department of Safety could not find a qualified man to take his position); however, one has been appointed. It is estimated by the safety director that he will conduct 80 to 120 inspections per year. He will also be required to conduct some investigations and education and training sessions.

Funding and Personnel. This function is funded through the budget of the Department of Safety, which is derived from the Industrial Administrative Fund.

This function consumes about 50 per cent of the time of the state coal mine inspector.

Advisory Group. In the performance of this function the Industrial Accident Board, Department of Safety, is advised and assisted by the Board of Examiners of Applicants for Coal Mine Inspector, Foreman, and Examiner, as provided in Sections 50-412 through 50-427, R.C.M. 1947.\* This Board performs two duties, each requiring a different membership and a different mode of appointment, as outlined by the chart below:

FUNCTIONS

Function 1

Function 2

The Board is required to pass upon the qualifications of all applicants for the position of mine foreman and mine examiner for the State of Montana.

The Board is required to pass upon the qualifications of all applicants for the position of state coal mine inspector.

MEMBERSHIP

and  
APPOINTMENT

This Board is composed of one practical miner, one mine manager and the state coal mine inspector. All are appointed by the Industrial Accident Board.

This Board is composed of one practical miner, one mine superintendent, appointed by the Industrial Accident Board, and a third member who shall be selected by the first two members.

It is estimated by the Department of Safety that this Board will meet about 2 to 3 times per year.

As provided in Section 50-418, R.C.M. 1947 the members of the Examining Board, with the exception of the state coal mine inspector, shall receive \$10.00 per day compen-

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\*Note: The reason for having this Board, as given by the safety director, is historical. In the past, when coal mining was a large operation in this state, the labor unions lobbied vigorously to attain provisions for this Board, in order presumably to insure that mine inspectors, foremen and examiners would be chosen impartially. It should be noted that the quartz and metals mine industry do not have the use of any such Board.

sation, for a term not exceeding two meetings of five days each in a year, and whatever sum is necessary to reimburse them for travel expenses.

#### D. Regulation of the Quartz Mining Industry

General. This function is given to the Industrial Accident Board by Title 50, Chapter 9, R.C.M. 1947. The Department of Safety has been charged with direct supervision of this function by the Industrial Accident Board. This function is not restricted to the inspection of hazardous industries, as so defined by the Workmen's Compensation Act, as is the Montana Safety Act. The performance of this function is governed by Sections 50-101 through 50-118, R.C.M. 1947; and Sections 94-35-125 through 94-35-136, R.C.M. 1947.\* The purpose of this function is to establish minimum safety standards for the quartz mining industry, to insure that reasonably safe and healthful working conditions are maintained in quartz mines and related industries.

Description. The duties of the mine inspector are outlined in Section 50-102, R.C.M. 1947. This Section reads as follows:

It is the duty of the inspector of quartz mines to visit every mine in the state once every year and inspect it's workings, timbering, ventilation, means of ingress and egress, and the means adopted in the use for the preservation of the lives and safety of the miners employed therein. For this purpose the inspectors at all times shall have access to any mine and all parts thereof. All mine owners, lessees, operators, or superintendents must render such assistance as may be necessary to enable the inspectors to make the examination. When upon such inspection any mine or portion thereof is found to be in an unsafe condition, the inspector shall at once serve a notice in writing upon the

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\*Note: Though almost never used, these criminal code sanctions have been deemed by the safety director to be necessary, for they act as a deterring threat to those who would be otherwise tempted to ignore the provisions of the Montana Quartz Mining Code. It must be further noted that the Montana Safety Act makes provisions for enforcement by civil suit, but it has not been tested as to whether or not the Act's provisions are supplementary to those of the Criminal Code mentioned above.

owner, lesser, lessee, agent, manager, or superintendent thereof, setting forth the nature of the defects which render such mine unsafe, and the point or place in such mine where such defects exist, and requiring the repair necessary to remedy such defects to be made within a specified time, and if in his judgment the circumstances so require, he shall forbid the operation of such mine or portion thereof as has been declared unsafe, save and except for the purpose of making the repair necessary for the purpose of remedying such defects and making such mine safe for the laborers employed therein.

It is estimated by the Safety Department that during fiscal year 1969 the mine inspectors conducted 600 inspections, 40 investigations, issued 40 work orders and made one closure. Safety meetings and first-aid sessions were also conducted by the inspectors.

It should be noted that in addition to their duties as quartz mine inspectors, these men have been deputized by the State Fire Marshal to aid him in the inspection and licensing of powder magazines located in conjunction with quartz and metals mines. The performance of this function is governed by the provisions of Sections 69-1904 through 69-1925, R.C.M. 1947.

Funding and Personnel. This function is funded through the budget of the Department of Safety, which is derived from the Industrial Administrative Fund.

Two full-time mine inspectors are employed to perform this function. It is estimated by the safety director that about 50 per cent of their time is spent inspecting, 25 per cent conducting investigations, and 25 per cent for education and training sessions.

#### E. Administration

This is an enumeration of the duties and personnel needed to efficiently support and supervise the inspectors in the performance of their duties. The coding of all reports consumes 100 per cent of the time of a codifier. Office duties such as typing, mailing, filing, etc. consume 100 per cent of the time of two secretaries. Supervision and planning consume 100 per cent of the time of the safety director. Research requires 5 per cent of the time of the safety supervisor.

This function is funded through the budget of the Department of Safety, which is derived from the Industrial Administrative Fund.

Relations With Other Agencies. The Industrial Accident Board, Department of Safety, is required by Section 41-1733, R.C.M. 1947 to cooperate with the State Board of Health, Division of Air Pollution, Industrial Hygiene and Radiation, in performance of the duties assigned by

law to the Industrial Hygiene Section. Section 41-1733, R.C.M. 1947 reads as follows:

The board shall report occupational health hazards discovered in its investigations and inspections of places of employment to the state board of health and shall cooperate with the state board of health in carrying out its duties as specified in Title 69, Chapter 42, R.C.M. 1947.

Consultation between the two departments is on the average about once per month.

#### Silicosis Compensation

General. The Silicosis Compensation program\* is administered by the Industrial Accident Board through the Department in accordance with the provisions of Title 71, Chapter 10, R.C.M. 1947. The purpose of this program is to provide benefits for workmen whose ability to earn has been limited because of silicosis and who are unable, otherwise, to qualify for benefits under the Occupational Disease Act, Title 92, Chapter 13, R.C.M. 1947.

Description. The secretary of the Industrial Accident Board is in charge of administering this program. The secretary receives applications for compensation from workmen and checks to determine whether applicants meet initial qualifications (10 years resident of the state of Montana) and that applicants do not qualify for compensation under the provisions of the Occupational Disease Act. The applicants are then examined by a qualified doctor of internal medicine to determine the degree of disability due to silicosis. If the applicants are deemed by the examining physician to be totally disabled by silicosis, then the Industrial Accident Board issues an order to begin compensation payments.

Presently, there are 412 claimants receiving benefits under this program. In 1961, when the Board was given charge of this program, there were 741 claimants. During

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\*Note: This function was transferred to the Industrial Accident Board from the Department of Public Welfare by the Legislature in 1961. All active cases (persons then receiving silicosis payments) were taken over by the Industrial Accident Department.



fiscal year 1969 there were 78 applicants, 62 of whom were denied, and 16 of whom were accepted as being entitled to benefits.

Funding and Personnel. The Silicosis. Compensation program is funded by legislative appropriation from the state general fund. Expenditures, including benefits, personal services and operation expenses for the past biennium totaled \$1,427,720.40. The appropriation for the current biennium is \$1,382,037.00. Section 71-1008, R.C.M. 1947 provides that federal grants-in-aid for silicosis will be administered by the Industrial Accident Department. To date the Department has received no federal grants-in-aid for this program.

It is estimated by the secretary of the Industrial Accident Board that about 2 per cent each of the time of the Board secretary, the Board stenographer and one accountant in the Accounting Division are employed in the administration of this program.

#### Volunteer Firemen's Compensation

General. The Volunteer Firemen's Compensation Act (Section 11-2020 through 11-2031, R.C.M. 1947) was originally enacted in 1935 to provide a medical, hospital and burial insurance plan for members of the Volunteer Fire Departments in unincorporated towns, cities and rural fire districts in the state of Montana. The original act was amended in 1965 to add a pension plan to the original benefits.

#### Description.

##### A. Compensation

Volunteer Firemen's Compensation, as administered by the Industrial Accident Department, is in fact a re-insurance program. The Department encourages the individual fire departments to insure with a private insurance company for initial compensation. The Department pays \$50.00 per year from the Volunteer Firemen's Compensation Earmarked Revenue Account to each single fire department for the payment of premiums for private insurance coverage (Section 11-2022, R.C.M. 1947). Only when the limit of the private insurance policy is reached does the Department have authorization to provide payments of compensation for medical, hospital and burial expenses. The law does provide a limit for the payment of benefits of compensation by the Department. Presently, some 120 Volunteer Fire Departments receive the \$50.00 payment for insurance coverage each year. The last claim for compensation benefits under this program

was paid in 1963. Since the program's inception in 1935 only about \$1,400 has been paid in medical and hospital benefits.

#### B. Pension

The pension plan provided in the Volunteer Firemen's Compensation Act is administered by the Public Employees Retirement System. A description of this function is included in this report for purposes of making a thorough explanation of the program. Pension benefits are available to those who have served as volunteer firemen in unincorporated towns and cities of Montana for at least twenty years. As provided in the Act, pension benefits will begin to be paid only after the Volunteer Firemen's Compensation Earmarked Revenue Account (which is administered wholly by the Department) exceeds one million dollars.\* At this time, any amount in the account in excess of one million dollars is prorated, according to PERS pension standards, among eligible volunteer firemen. At the account's present rate of growth, it is anticipated that pension benefits will not be available to any eligible retired volunteer firemen until at least 1973. Members of all departments enrolled with the Industrial Accident Department under the Volunteer Firemen's Compensation Act will be eligible for these pension benefits.

Funding and Personnel. Funds required to provide payments for compensation and pension to the Volunteer Fire Departments are derived from five per cent (5%) of the tax levied on fire insurance written in the state of Montana. This tax is collected by the State Auditor and deposited in the Volunteer Firemen's Compensation Earmarked Revenue Account. Revenue is also obtained from the interest on investments made by the Industrial Accident Department of funds within the account.

During the past biennium \$114,525.49 was collected from fire insurance tax; \$47,990.68 was collected from interest on investments. \$10,619.44 was paid to Volunteer Firemen Departments to help defray the cost of private insurance coverage. On June 30, 1969 the total value of the Volunteer Firemen's Compensation Earmarked Revenue Account was \$654,631.69. This figure includes the cash balance of \$16,631.69 and the investments valued at \$638,000.00.

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\*Note: The fund will continue to grow (at approximately its present rate - \$80,000 to \$90,000 per year) even after reaching one million dollars. This is in order to be able to meet anticipated pension needs.

Costs for administration of this program are paid from the Industrial Administrative Fund and the Public Employees Retirement System funds. Costs for supplies (Industrial Accident Department - \$50.00 per year; Public Employees Retirement System - \$12.50 per year) are deducted from the Volunteer Firemen's Compensation Earmarked Revenue Account, as provided in Sections 11-2025 and 11-2026, R.C.M. 1947.

The Volunteer Firemen's Compensation program is administered in the Industrial Accident Department by the Accounting Division. It is estimated that the fiscal officer and his secretary spend approximately 15 per cent of their time administering this program. The program is administered in the Public Employees Retirement System by the director and his secretary. It is estimated that they spend approximately one day a year administering this program.

Relations With Other Agencies. The Department cooperates with the Board of Land Commissioners when making investments for the Volunteer Firemen's Compensation Earmarked Revenue Account. In practice, the investments are made by the fiscal officer and then formally approved by the Board of Land Commissioners.

The Industrial Accident Department's relation with the Public Employees Retirement System is as described above. Generally the Department administers the Volunteer Firemen's Compensation Earmarked Revenue Account and makes payments for insurance and compensation from this account. The Public Employees Retirement System makes requests to the Department for payments of supplies and will approve and issue payments for pension benefits when the fund is in excess of one million dollars.

### Administration

General. The program of Administration is simply an enumeration of the duties necessary to maintain proper, effective and efficient administrative functioning of the entire Industrial Accident Department. These functions consist of: coordination of the various divisions of the Industrial Accident Department; statistics and data processing; public information and education; administration of the Industrial Administrative Fund; and microfilming of past records and files.

### Description

#### 1. Coordination of the Various Departments

General. Administrative coordination is handled by the coordinator, a position created in March 1969 by

administrative action of the Chairman of the Industrial Accident Board. The coordinator aids the Chairman in carrying out his administrative duties. This position was created due to the growth in the volume of the Industrial Accident Department's work load and the ensuing administrative duties.

Description of Duties. The coordinator is charged with the responsibility of studying all the administrative functions of the Industrial Accident Department to insure that all departments are functioning effectively and efficiently, to eliminate wasted effort and duplication of duties. The ultimate goal is to more effectively administer the broad powers and responsibilities of the Workmen's Compensation Act, and also to insure that the Industrial Accident Department is functioning within the limits of the law.

Funding and Personnel. The function of coordination is financed by budget appropriation from the Industrial Administrative Fund.

About 65 per cent of the time of the coordinator is spent performing this function. Secretarial help is obtained either from the Employers Accounts Division or the Accounting Division, and usually averages eight hours per week.

## 2. Statistics and Data Processing

General. The coordinator presently is charged with the additional duty of administering the Industrial Accident Department's use of the statistics and data processing center in the Department of Administration.

Description of Duties. In his capacity as head statistician, the coordinator acts as a liaison with data processing to: (1) aid in efficient handling of the Industrial Accident Department's voluminous records (e.g., the Industrial Accident Department annually files 22,000 to 24,000 accident reports; the Department keeps a running account, name and address file on all firms covered by the Workmen's Compensation Act; the Department maintains a six year case file on all claims -- to mention but a few of the Department's records); and (2) supply the administrative divisions of the Department with all data relative to their needs (this includes routine needs and special requests).

At the present time there are some 32 state agencies utilizing the data processing center. Of these, the Department is the fourth largest user, with an annual budget of \$84,000 in contracted services.

The head statistician has indicated that Data Processing will be more fully utilized in the future by the Industrial Accident Department. At present, volume utilization increases at the rate of about 10 per cent per year. This increase is expected to level off in about three years or as full computer capacity is attained by the Industrial Accident Department. At present, in comparison with other state agencies, the Industrial Accident Department is in a relatively advanced stage of computerization. In the opinion of the head statistician, data processing is an "absolute necessity" to the Industrial Accident Department's efficient functioning.

Funding and Personnel. All funds for this function, including the cost of statistics and data processing, are derived from the Industrial Administrative Fund.

This function employs approximately 35 per cent of the time of the coordinator.

### 3. Public Information and Education

General. The public information function is performed by the director of public information and education, a position created by administrative action of the Board on July 1, 1969. The purpose of this position is to provide an effective and efficient means of educating the public about the functions and organization of the Department. This position is under the direct supervision of the Chairman of the Board.

Description of Duties. The director of public information and education is responsible: (1) to be certain that the Board's news releases are properly written, approved and distributed; (2) for arrangement of information programs for radio and television; (3) for editing the quarterly Industrial Accident Board Newsletter; (4) for arrangement of meetings with Board representatives and representatives of employers, employees, insurance companies etc.; and (5) for conducting training sessions for employers and employees.

Funding and Personnel. This function is financed by the Industrial Administrative Fund.

This function occupies the full time of the public information and education director.

4. Administration of the Industrial Administrative Fund

General. The Industrial Accident Administrative Earmarked Revenue Account was created in 1915 under the provisions of Section 92-116, R.C.M. 1947, to pay the administrative expenses of the Department. The sources of revenue for this fund are:

(1) Boiler Inspection and License Fees

(a) Boiler Inspection Fees

- 1) Boilers with pressure under 30 pounds per square inch-----\$10.00
- 2) Boilers with pressure from 30-100 pounds per square inch-----\$15.00
- 3) Boilers with pressure from 100-300 pounds per square inch-----\$20.00
- 4) Boilers with pressure over 100 pounds per square inch-----\$30.00
- 5) Miniature boilers with pressure not in excess of 100 pounds per square inch-----\$10.00
- 6) Steam traction-----\$ 5.00
- 7) Operating certificate-----\$ 4.00

(b) Engineer's License Fees

- 1) First Class-----\$30.00
- 2) Second Class-----\$20.00
- 3) Third Class-----\$12.00
- 4) Low Pressure-----\$ 8.00
- 5) Traction-----\$12.00
- 6) Renewal of License-----\$ 4.00
- 7) Replacement of lost certificate---\$ 2.00

(2) An amount not exceeding ten per cent of the gross annual direct premium income for the previous fiscal year less premium returns, is levied against the Industrial Insurance Account in the Agency Fund.

(3) Copies of paper, records, official documents, and orders:

- (a) non-certified-----15¢ per folio
- (b) certified-----20¢ per folio
- (c) hearing transcripts-----20¢ per folio
- (d) publications issued-----set by Board per issue

(4) Refusal of employers to submit records and payrolls to inspection -- \$100.00 penalty for offense.

(5) Assessment of not more than .02 of one per cent of annual payroll, for the preceding fiscal year, of employers choosing Plan I of the Workmen's Compensation Act. Minimum assessment -- \$200.00.

(6) Assessment of not more than three and one-fourth per cent (3.25 per cent) of the gross annual direct premium on policies insuring employers during the previous calendar year, who choose Plan II of the Workmen's Compensation Act. Minimum assessment -- \$10.00

(7) Proof of solvency, and annual renewal of application of employers who choose Plan I of the Occupational Disease Act, filing -- \$5.00 fee.

(8) Policy and policy renewals of employers who choose Plan II of the Occupational Disease Act, filing -- \$3.00 fee.

Description of Duties. The Accounting Division of the Industrial Accident Department is charged with the responsibility of properly administering the Industrial Accident Administrative Fund. The Accounting Division generally collects all revenues, prepares annual budgets, and approves and pays all claims (purchasing) charged to this fund. During the past biennium \$1,276,113.63 in revenue was collected for this fund. During the same time \$1,231,456.71 was expended leaving a balance in the fund of \$44,656.92.

Funding and Personnel. Costs for the administration of the Industrial Accident Administrative Fund are charged against the fund itself.

An account clerk in the Accounting Division is employed full-time for this function. In addition, the following devote part of their time to this function: a secretary (50 per cent), the fiscal officer (50 per cent), and a typist (10 per cent).

##### 5. Microfilming of Past Records

General. The Industrial Accident Department presently carries a 20 year backlog of claims histories. In order to conserve space, the Department is presently reviewing files and microfilming all necessary history, with the end being to have only a 10 year backlog.

Description. The microfilming of past records is under the direct supervision of the fiscal officer of the Accounting Division. About one and one half past years are microfilmed per year.

Funding and Personnel. The Department employs two work-study employees to perform this function. They work 15 hours a week during the school year and full-time during the summer months. The Department pays 20 per cent of their salaries from the Industrial Accident Administrative Fund. The remaining 80 per cent of their salaries is paid through federal moneys; however, the Department is not given charge of these federal moneys.

Funding and Personnel. The entire program of administration is funded from the Industrial Administrative Fund.

The program of administration employs the full-time of a coordinator, a director of public information and education, and an accountant clerk in the Accounting Division. In addition, the following spend part of their time administering the program of administration: a secretary from the Accounting Division (50 per cent); the fiscal officer (50 per cent); a typist from the Accounting Division (10 per cent); and two work-study employees (15 hours per week) under the supervision of the fiscal officer.

#### Relations With Other Agencies

The Industrial Accident Department's fiscal officer cooperates with the Board of Land Commissioner's when making investments for the Department's non-general fund accounts. In practice these investments are made by the fiscal officer and then formally approved by the Board of Land Commissioners.

The Industrial Accident Board, the claims manager and the supervisor of Plans One and Two Claims make referrals of permanently disabled workmen enrolled under the Workmen's Compensation Act to the Division of Vocational Rehabilitation, as provided in Title 92, Chapter 14, R.C.M. 1947.

The Industrial Accident Department's fiscal officer cooperates with the director of the Public Employees Retirement System in administering the provisions of the Volunteer Firemen's Compensation Act (Section 11-2020 through 11-2031, R.C.M. 1947). The Industrial Accident Department administers the provisions relating to compensation (medical, hospital and burial) and the Public



Employees Retirement System administers the provisions relating to pension plans for volunteer firemen.

The Industrial Accident Department's coordinator administers contracted services with the Data Processing Center of the Department of Administration. The Data Processing Center helps the Industrial Accident Department maintain its voluminous records and compile statistics on various phases of operation.

The Department of Safety of the Industrial Accident Board cooperates with the Division of Air Pollution, Industrial Hygiene and Radiation of the Department of Health, as required by Section 41-1733, R.C.M. 1947. The Department of Safety reports occupational health hazards discovered in its investigations and inspections of places of employment and generally aids the Division of Air Pollution, Industrial Hygiene and Radiation in performing its duties with respect to industrial hygiene.

The quartz mine inspectors of the Department of Safety have been deputized by the State Fire Marshal to aid him in the inspection and licensing of powder magazines.

#### Summary

The Industrial Accident Board was created in 1915 to administer and enforce the provisions of the Workmen's Compensation Act (Title 92, R.C.M. 1947). Since the time of its inception the agency's powers and duties have been expanded to include, in addition to the Industrial Compensation program, the following: a Safety program, a Silicosis Compensation program, and a Volunteer Firemen's Compensation program.

The Industrial Accident Board itself consists of three members, two of whom are ex-officio, the Commissioner of Labor and Industry and the director of the Division of Vocational Rehabilitation. The third member is appointed to a four year term by the Governor, by and with the consent of the Senate, and serves as Chairman of the Industrial Accident Board and Executive Director of the State Plan of Workmen's Compensation Insurance. In order to perform and administer the myriad duties (programs) assigned to it by law, the Industrial Accident Board has employed sixty-one (61) full-time personnel, and, by administrative decisions, has organized these personnel into a departmental-like structure consisting of five (5) administrative divisions (Safety, Accounting, Supervision of Plans One and Two, Claims, and Employer Accounts). During the past biennium \$ 1,242,030 was expended for operating and administrative costs of the Industrial Accident Board and Department.

The powers and duties of the Industrial Accident Board, as prescribed by law, are:

- I. Policy formulation by means of order, directive, decision, rule or regulation:
  - A. Plan I Workmen's and Occupational Disease Compensation
  - B. Plan II Workmen's and Occupational Disease Compensation
  - C. Plan III Workmen's and Occupational Disease Compensation
  - D. Referral for Vocational Rehabilitation
  - E. Second Injury Compensation
  - F. Industry Safety
  - G. Silicosis Compensation
  - H. Volunteer Firemen' Compensation
  
- II. Adjudication:
  - A. Conducting hearings and making decisions by issuing orders on awards for workmen's compensation; second injury compensation; occupational disease compensation; silicosis compensation; and volunteer firemen's compensation.
  
  - B. Conducting hearings and making decisions by issuing orders for the enforcement of the industrial safety laws.

Though, as outlined above, vested in the three-member Board itself, policy for the administration of the above listed programs is in fact formulated by the Chairman, or, at his discretion and with his approval, by his administrative assistant, the coordinator, or, in some instances (generally those involving the more specific duties), by the Division directors; and is then formally approved by the Board. Board approval, it must be noted, is in all instances nothing more than formal concurrence to what has already been formulated by the Chairman or his designee in the Department.

In matters of adjudication with respect to the various types of compensation the Board is empowered to: 1) hear disputes of valid controversies (note: the Chairman determines the validity of a controversy); and/or 2) issue orders awarding (in a specified amount to be paid in specified installments for a specified time) or denying compensation. Though vested by law with the power to hear controversies in matters of compensation, the Board itself never actually exercises this power. In fact, hearings are conducted by two hearings officers and the Chairman, who, after hearing a dispute, submit suggested settlements to the Board for the final approval. On the average the hearings officers will hear about 300-400 disputes a year, and the Chairman about 50. In the matter of issuing orders, the Board itself never decides what specific order, or the terms thereof, will be presented

to them for approval. Rather, the orders are drafted by the Chairman and presented in final form (that is, everything is set down on the order form except the Board's signatures) to the Board at its weekly meetings (50-70 orders for compensation are presented at each meeting) and are signed into effect, if approved. Only about one per cent of the orders, as estimated by the Chairman, are ever refused approval by the Board, and in all cases this is done only on the recommendation of the Chairman. This one per cent includes only orders for compromise settlements where the Board does not approve of the amount or the terms of the compromise. The Chairman, it must be noted, may reject a request for a Board order on procedural grounds. About ten per cent, as estimated by the Chairman, of requests for Board orders are denied by the Chairman on the basis of procedural errors and/or omissions.

In matters of adjudication with respect to industrial safety the Board is empowered to: 1) issue orders to enforce the industrial safety laws; and 2) hold hearings at the request of effected parties to determine the justification, or lack thereof, of issuing enforcement orders. As in the case of compensation, enforcement orders drafted by the Chairman are presented to the Board for its approval. A presented order has never been denied approval by the Board. During the past fiscal year (1969) the Board approved one order for the enforcement of the industrial safety laws. Hearings, if requested, are conducted by the Chairman or the safety director. No hearings on industrial safety matters were held during the past fiscal year.

At its weekly meetings the Board spends about ninety per cent of its time approving orders for compensation. The remaining ten per cent of its time is spent approving policy that has been formulated by the Chairman or his designee in the Department.

At the present time, the Board, through the Department, administers five (5) programs: Industrial Compensation, Safety, Silicosis Compensation, Volunteer Firemen's Compensation, and Administration. The following is a detailed description of each of the five programs.

#### Industrial Compensation

The program of Industrial Compensation may be functionally divided into four (4) areas: Workmen's Compensation; Occupational Disease Compensation; Vocational Rehabilitation of Workmen; and Second Injury Compensation.

#### Workmen's Compensation

Workmen's Compensation may be defined as compensation whereby employers are protected from possible liability in the event of accidental injury to an employee; and the employee (and his heirs and benefactors) is assured of medical care and hospitalization for the treatment of his injuries at no expense to himself, and weekly loss of income benefit to the limit provided by the Workmen's Compensation Act. Montana offers three methods (plans) of Workmen's

Compensation. Plan One is the so-called self-insurers program, and may be adopted by any employer only if he furnishes convincing proof to the Industrial Accident Board of his financial ability to assume the obligation to pay all the benefits provided by the Workmen's Compensation Act. In most cases the self-insurer will re-insure with a private insurance company for liabilities in excess of \$10,000. The second method is known as Plan Two. It provides for insurance of the employees by a casualty insurance company authorized to write Workmen's Compensation Insurance in this state. The third method of insurance, known as Plan Three, is the State Compensation Insurance Plan, and is administered and operated by the Industrial Accident Board, through the Department. All employees who do contract work for the state or one of its political sub-divisions are required to insure under Plan Three. The State Compensation Insurance Plan is obligated by law to furnish coverage for state government and for counties, cities, school districts and all public corporations. It is also obligated by law to accept any employer risk, regardless of whether or not such risk is insurable or uninsurable by reason of excessive hazard or other causes.

Presently, 65 employers are registered under Plan One, 7,071 under Plan Two and 8,031 under Plan Three.

#### Supervision of Plans One and Two

With respect to Plans One and Two the Industrial Accident Board is by law required generally to supervise and oversee the operations of Plans One and Two Workmen's Compensation; to keep a running record of every account, case, claim, accident and payment of compensation; to see that injured workmen insured under Plans One and Two receive their fair due; and to insure that Plans One and Two are operating in accordance with the Workmen's Compensation Act.

The Division for the Supervision of Plans One and Two is directly responsible to administer and carry out these responsibilities. Administrative support work is provided by the Accounting Division.

During fiscal year 1969, Plan One reported 3,192 industrial accidents and Plan Two reported 10,690 industrial accidents.

#### Administration of Plan Three

Plan Three Workmen's Compensation (the State Compensation Insurance Plan, the insurance company within the Industrial Accident Board's Department) is directly administered by the head of the Claims Division under the direction and supervision of the Board Chairman, acting in his capacity as Executive Director of the Industrial Insurance Fund (Plan Three).

The Claims and Employer Accounts Divisions are responsible to administer Plan Three Workmen's Compensation. Administrative support work is provided by the Accounting Division.

During the past fiscal year some 9,300 industrial accidents were reported under Plan Three and more than 5,000 claims were filed. During the past biennium, \$ 9,007,349.55 was paid under Plan Three for compensation and medical benefits.

#### Occupational Disease Compensation

Occupational Disease Compensation, as governed by Montana's Occupational Disease Act (Title 92, Chapter 13, R.C.M. 1947), provides compensation, burial, medical and hospital benefits to those disabled by occupational diseases. Like Workmen's Compensation, the Occupational Disease Act provides for three methods (plans) by which an employer may insure his employees. In order to be deemed eligible for payments under the Occupational Disease Act a workman must be declared to be totally disabled by an occupational disease.

The identical administrative practices and procedures used in the supervision and administration of Workmen's Compensation are employed in the supervision of Plans One and Two and the administration of Plan Three Occupational Disease Compensation.

During the past biennium, Plan One reported five (5) occupational disease cases, Plan Two one (1) case and Plan Three one (1) case. Presently, there is only one claimant receiving benefits under Plan Three.

#### Vocational Rehabilitation of Injured Workmen

In accordance with the provisions of Title 92, Chapter 14, R.C.M. 1947 the Industrial Accident Board is required to refer permanently disabled workmen enrolled under the Workmen's Compensation Act to the Division of Vocational Rehabilitation for the purpose of rehabilitating these workmen.

During rehabilitation the workman is entitled to receive payment of the following from funds collected by the Industrial Accident Board, through the Department: actual and necessary travel expenses from his place of residence to his place of training, and return; living expenses while in training away from home in an amount not in excess of \$30 per week; and expenses for tuition, books and necessary equipment while in training.

Referrals to the Division of Vocational Rehabilitation are made by the supervisor of claims for Plans One and Two, the claims manager and the Industrial Accident Board itself. The Industrial Accident Board's Accounting Division acts as a clearing agent for the payment of expenses due to the injured workmen under this program.

During fiscal year 1969, 171 referrals were made. Of these, 132 were accepted for services by the Division of Vocational Rehabilitation, 19 of which dropped out of the program for one reason or another. Also during fiscal year 1969, the Division of Vocational Rehabilitation released as rehabilitated 56 former Industrial Accident Board referrals.

### Second Injury Compensation

Second Injury Compensation provides total disability benefits for an injured workmen who has lost the use of a second hand, arm, foot, leg or eye. Liability is limited to the second loss only, so that employers will not be discouraged from employing handicapped workmen.

Second injuring occurring under all three compensation insurance plans are reported in standard form. When received, these are so designated as second injury accidents and ~~it is indicated~~ that the workman injured is entitled to payments of compensation and medical benefits from the Second Injury Fund. Any claims work necessary is handled by the administration of the insurance plan under which the workman is insured.

Presently, two persons are receiving compensation from the Second Injury Fund.

Industrial Compensation requires 35.73 personnel (FTE).

### Safety

Montana's Industrial Safety program is administered by the Industrial Accident Board, through a Department of Safety. This department is supervised by a safety director who is appointed by the Industrial Accident Board, and who must have at least two years of experience or training in the field of industrial safety.

The Safety program may be divided functionally into four (4) areas: Administration of the Montana Safety Act; Boiler Inspection and Engineer's License; Regulation of the Quartz Mining Industry; and Regulation of the Coal Mining Industry.

#### Administration of the Montana Safety Act

The Department of Safety is responsible to administer the provisions of the Montana Safety Act. Generally, the purpose of this act is to insure that employers maintain reasonably safe and healthful places of employment, and adequately protect the lives and safety of every employee in all places of employment.

In the administration of this act, the Department of Safety is required to serve all those employments or places of employment designated as hazardous by the Workmen's Compensation Act.

In administering the provisions of this act, the Department of Safety performs the following duties: inspection of hazardous occupations for unsafe conditions and unsafe acts; investigation of all industrial-type fatal accidents and all accidents of a serious nature; presentation of training programs, seminars, first-aid courses and safety meetings, to train and educate employers

and employees in various aspects of industrial safety; creation, promulgation and enforcement of safety codes, with the approval of the Board, designed to prevent accidents. During fiscal year 1969, the Department of Safety conducted 2,200 inspections, 130 investigations, 100 first-aid courses and 270 safety meetings.

#### Boiler Inspection and Engineers License

The boiler inspectors of the Department of Safety are responsible to enforce the uniform safety standards prescribed by law on all steam boilers and fixed pressure vessels to that they might be judged to be safe for operation, and, further, to insure that all steam boilers and fixed pressure vessels in this state are operated by qualified engineers.

Department of Safety inspectors are required by law to inspect all steam boilers and steam generators in this state at least once each year, or whenever deemed necessary, to insure that they conform to the minimum safety standard for safe operation. In addition, the boiler inspectors are authorized to examine applicants and grant licenses to engineers who operate steam boilers and steam machinery, to insure that they are competent operators of such machinery.

During the past fiscal year the Department has estimated that 2,200 boiler inspections were conducted. On the average, about 3,200 licenses, new and renewal, are issued each year.

#### Regulation of the Coal Mining Industry

The Safety Department's coal mine inspector is responsible to inspect all coal mines in the state for strict compliance with health and safety standards to insure that all coal mines are operated within the provisions of the Coal Mining Code.

The law requires that the state coal mine inspector inspect all coal mines in the state at least once every three (3) months, or whenever deemed necessary.

#### Regulation of the Quartz Mining Industry

The Department of Safety's quartz mine inspectors are responsible to enforce the minimum safety standards prescribed by law for the quartz mining industry, and, further, to insure that reasonably safe and healthful working conditions are maintained in quartz mines and related industries.

The Quartz Mining Code requires the quartz mine inspectors to visit every mine in the state once every year and inspect its workings, timbering, ventilation, means of ingress and egress, and the means adopted for the use and preservation of the lives and safety of the miners employed therein.

During fiscal year 1969 the Safety Department has estimated that the quartz mine inspectors conducted 600 inspections and 40 investigations.

The Safety program presently requires 17.0 personnel (FTE).

#### Silicosis Compensation

The Industrial Accident Board, through the department, has been charged by law with the responsibility of administering a Silicosis Compensation program. The purpose of this program is to provide benefits for workmen whose ability to earn has been limited because of silicosis and who are unable, otherwise, to qualify for benefits under the Occupational Disease Act.

The secretary of the Board has been charged with the administration of this program. The secretary receives applications for compensation from workmen and checks to determine whether applicants meet initial qualifications and that applicants do not qualify for compensation under the provisions of the Occupational Disease Act. The applicants are then examined by a qualified doctor of internal medicine to determine the degree of disability due to silicosis. If the applicants are deemed by the examining physician to be totally disabled by silicosis, then the Industrial Accident Board is so informed and issues an order to begin compensation payments. Administrative support work for this program is provided by the Accounting Division.

Presently, there are 412 claimants receiving benefits under this program. In 1961, when the Board was given charge of the program, there were 741 claimants.

The Silicosis Compensation program requires .06 personnel (FTE).

#### Volunteer Firemen's Compensation

The Industrial Accident Board, through the Accounting Division, administers a program of Volunteer Firemen's Compensation, in accordance with the provisions of the Volunteer Firemen's Compensation Act. The purpose of this program is to provide a medical, hospital and burial insurance plan for the members of the volunteer fire departments in unincorporated towns, cities, and rural fire districts in the state of Montana.

Volunteer Firemen's Compensation is in fact a reinsurance program. The Industrial Accident Board, through the Accounting Division, encourages the individual fire departments to insure with a private insurance company for initial compensation. The Accounting Division pays \$50 per year to each single fire department for the payment of premiums for private insurance coverage. Only when the limit of the private insurance policy is reached does the Board have statutory authorization to provide payments of compensation for medical, hospital and burial expenses. Presently, some 120 volunteer fire departments receive the \$50 payment for insurance coverage each year. The last claim for compensation benefits under this program was paid in 1963.



The Volunteer Firemen's Compensation program requires .30 personnel (FTE).

#### Administration

The program of Administration is merely an enumeration of the duties necessary to maintain proper, effective and efficient administrative functioning of the Board's departmental-like administrative structure. These duties consists of the following: coordination of the various divisions supervised by the Board Chairman; compilation of statistics; processing of records; providing public information and education; administering the Industrial Administrative Fund; and microfilming of past records and files.

The program of Administration requires 5.0 personnel (FTE).

In the performance of its duties, the agency is advised and assisted by the following advisory councils: the Advisory Committee on Boiler Rules (permanent); the Board of Examiners for Applicants for Coal Mine Inspector, Foreman, and Examiner (permanent); the Advisory Committee on Workmen's Compensation (serving at the pleasure of the Governor); the Power Line Construction Code Committee (serving at the pleasure of the Industrial Accident Board; and the Medical Panel for Occupational Disease Examination (permanent).

The Industrial Accident Department works with other agencies of state government in general administrative, fiscal and enforcement capacities. The specific relations with other agencies can be summarized as follows:

--The fiscal officer cooperates with the Board of Land Commissioners when making investments for the Industrial Accident Board's non-general fund accounts, and with the Director of the Public Employees Retirement System in administering the provisions of the Volunteer Firemen's Compensation Act.

--The Industrial Accident Board, the claims manager and the supervisor of claims for Plans One and Two make referrals to the Division of Vocational Rehabilitation of permanently disabled workmen enrolled under the Workmen's Compensation Act.

--The administrative coordinator administers contracted services for statistical compilation by the Data Processing Center of the Department of Administration.

--The Department of Safety cooperates with the Division of Air Pollution, Industrial Hygiene and Radiation of the Department of Health in administering the provisions of the Montana Safety Act and the industrial hygiene law (Title 69, Chapter 42, R.C.M. 1947).

--The quartz mine inspectors of the Department of Safety have been deputized by the State Fire Marshal to aid him in the inspection and licensing of powder magazines.

DEPARTMENT OF LABOR AND INDUSTRY

Organization

The Montana Constitution, Article XVIII, Section 1, provides that:

The legislative assembly shall provide for a department of agriculture, and a separate department of labor and industry to be located at the capitol and each of said departments shall be under the control of a separate commissioner who shall be appointed by the governor, subject to the confirmation of the senate. Each commissioner shall hold office for four (4) years and until his successor is appointed and qualified; the compensation for each commissioner shall be as provided by law. The powers and duties of each commissioner shall be prescribed by the legislature.

The act creating the Department of Labor and Industry, enacted in 1951, has been codified in Title 41, Chapter 16, R.C.M. 1947.

The general purposes of this agency are: 1) to regulate as provided by state law the employer--employee relationship in all matters pertaining to payment of wages, hours, employment practices, and child labor; and 2) to regulate apprenticeship training. In accordance with the agency's general purposes, the Commissioner of Labor and Industry has organized the Department into two units, each consisting of three personnel--the Labor Administration Unit and the Apprenticeship Unit.

Policy for the Labor Administration program is formulated by the Commissioner. Policy for the Apprenticeship program is formulated by the Apprenticeship Council, which is composed of six members representative of labor and management appointed by the Governor to staggered three year terms. Day by day supervision of both Labor Administration and Apprenticeship Training is handled by the Commissioner of Labor and Industry.

Legal counsel for the Department in the form of opinions on interpretations of the law is provided through the offices of the Attorney General. Prosecutions for the enforcement of the Labor Administration laws are handled by the county attorney of the county in which the violations occur. It might be noted that the county attorneys may act upon their own motion, or at the request of the Department of Labor and Industry in prosecuting for violations of the state's labor laws.

The offices of the Department of Labor and Industry are located at 1336 Helena Avenue, Helena, Montana.

## Funding and Personnel

The operational expenses for the Department of Labor and Industry are almost wholly provided by legislative appropriations from the general fund. The appropriation for the current biennium is \$128,050. General fund expenditures during the past biennium totaled \$105,901. In addition to the general fund moneys the Apprenticeship Unit of the Department receives federal funds from the Veterans' Administration for processing G.I. Bill apprentices. These funds require no state matching, and on the average total about \$5,000 per year.

As mentioned above the Department consists of six full-time employees organized into two equal administrative units. The Labor Administration Unit consists of the Commissioner of Labor and Industry, an assistant commissioner and one secretary. The Apprenticeship Unit consists of a director of apprenticeship, a field man and one secretary, all of whom are appointed by the Commissioner with the approval of the Apprenticeship Council.

## Description of Programs

### Labor Administration

General. The Labor Administration Unit of the Department of Labor and Industry is generally responsible to regulate the employer--employee relationship in order to insure that the lawful rights of both employers and employees are protected and respected. The general scope of this responsibility is defined in Section 41-1605, R.C.M. 1947, which reads as follows:

The department of labor and industry shall be charged with the duty of enforcing all the laws of Montana relating to hours of labor, conditions of labor, prosecution of employers who default in payment of wages, protection of employees, all laws relating to child labor regulating the employment of children in any manner, and to administer the laws of the state relating to free employment offices.

Description. The more specific powers and duties of the Department of Labor and Industry with respect to the responsibilities outlined above may be described as follows:

#### 1. Hours of Labor

The Montana Constitution, Article XVIII, Section 4, provides that:

A period of eight hours shall constitute a day's work in all industries, occupations, undertakings and employments, except farming and stock raising; provided, however, that the

legislative assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided.

Hours of labor in various trades and industries are specifically defined and penalties set forth for violations, in Title 41, Chapter 11, R.C.M. 1947; Section 80-714, R.C.M. 1947; and Sections 11-1931 and 11-1934, R.C.M. 1947. It should be noted that the Commissioner of Labor and Industry is given no specific powers and duties, other than that of general enforcement, with respect to hours of labor. Upon complaint, the Commissioner of Labor and Industry will enforce these laws by persuasion and/or threat of prosecution. The Department receives and attempts to mediate about 120 complaints concerning hours of labor each year. No prosecutions for violations of hours of labor laws were instituted during the past fiscal year by the Department of Labor and Industry.

## 2. Payment of Wages and Protection of Discharged Employees

The powers and duties of the Commissioner of Labor and Industry with respect to payment of wages and the protection of discharged employees are outlined in Title 41, Chapter 13, R.C.M. 1947. Generally, the Commissioner, or his authorized representative in the Department, is responsible to: 1) inquire diligently for any violations of this act (Section 41-1302, R.C.M. 1947); 2) keep a record (including the names and addresses of the owners, the principle places of business, and the names and addresses of persons upon whom service of process may be made) of all employers in the state subject to the provisions of the act (Section 41-1313, R.C.M. 1947); 3) conduct inspections and investigations to determine whether any person has violated any provisions of this act or any rule or regulation issued by the Commissioner for the enforcement of this act (Section 41-1314.1, R.C.M. 1947); 4) administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents and testimony, and to take depositions and affidavits (Section 41-1314.1, R.C.M. 1947)\*; 5) issue, amend, and enforce rules and regulations for the purpose of carrying into effect the provisions of this act\*\*; 6) report violations of the act to the county attorney of the county wherein the operations of the employer in violation are being carried on (Section 41-1315, R.C.M. 1947). With

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\*Note: It should be here noted that Section 3-1503, R.C.M. 1947 grants blanket quasi-judicial powers to the Commissioner of Labor and Industry for the performance of all duties imposed upon the Department by law.

\*\*Note: The Commissioner of Labor and Industry has never issued rules and regulations for the enforcement of this act.

regard specifically to the payment of wages the Commissioner is responsible to: 1) institute actions for the collection of unpaid wages (Section 41-1302, R.C.M. 1947); and 2) take, upon the written request of an employee who has a claim for unpaid wages, an assignment of the claim in trust for the employee, and maintain any proceeding appropriate to enforce the claim, including liquidated damages. With the written consent of the assignor, the Commissioner may settle or adjust any claim so assigned to him (Section 41-1314.2, R.C.M. 1947). With regard to the protection of discharged employees the Commissioner is specifically responsible to enforce the provisions of Section 41-1309 through 41-1311, R.C.M. 1947, to insure that discharged employees are not prevented from obtaining employment by such means as blacklisting and to request the invocation of the misdemeanor penalty for violations of these sections as provided in Section 94-3555, R.C.M. 1947.

The Commissioner of Labor and Industry has estimated that approximately 2400 wage claim complaints are filed each year. Of this number approximately 72 are disputed and go to hearing. These hearings are usually held only before the Commissioner of Labor and Industry, though at times he may call upon members of the business and labor communities to aid him in his determination. No prosecutions for the payment of wages were instituted by the Department of Labor and Industry during the past fiscal year. Also during the past fiscal year, the Department received three complaints for blacklisting. These complaints were settled by compromise, and no charges were filed by the Department of Labor and Industry for the prosecution of blacklisting during the past fiscal year.

### 3. Regulation of Child Labor

The powers and duties of the Commissioner of Labor and Industry with respect to child labor are outlined in Title 10, Chapter 2, R.C.M. 1947.

The general provisions regarding child labor in this state are outlined in Section 10-201, R.C.M. 1947 which reads as follows:

Any person, company, firm, association, or corporation engaged in business in this state, or any agent, officer, foreman, or other employee having control of management of employees, or having the power to hire or discharge employees, who shall knowingly employ or permit to be employed any child under the age of 16 years in any occupation that is known to be dangerous or unhealthful\*, or which may be in any way detrimental to the morals of said child, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail for a

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\*Note: The Montana Constitution, Article XVIII, Section 2 specifically states that "It shall be unlawful to employ children under the age of sixteen (16) years of age in underground mines." Provisions for enforcement and punishment of this provision of the Constitution are outlined in Title 10, Chapter 2, R.C.M. 1947.

period of not less than thirty days nor more than six months, or by both such fine and imprisonment.

Provisions for the enforcement of the child labor laws are outlined in Section 10-205, R.C.M. 1947, which generally provides that the Commissioner and/or the county attorneys shall, upon their own motion or upon complaint, institute proceedings for the prosecution of violations of the child labor laws. In order to prevent violations of the child labor laws, the Commissioner is given two additional duties: 1) Section 10-203, R.C.M. 1947 requires the Commissioner to compile and preserve a complete list of the name, age, date of birth, sex, and the names of the parents or guardians of each child under the age of 16 years who is a resident of Montana; and 2) Section 10-204, R.C.M. 1947 provides that any child between the ages of 16-21 may make application to the Commissioner for an age certificate, which must be presented to any employer with whom the child may seek employment.

During the past fiscal year the Department received three complaints for violations of the child labor laws. No prosecutions, however, were instituted. Due to a lack in funding and personnel, the Department is currently unable to maintain the required list of children under the age of 16 years. Also due to a lack of funding and personnel, the Department is currently unable to provide that all working children between the ages of 16 through 21 have age certificates. Currently, the Department issues 1,250 of these age certificates each year.

#### 4. Preference of Montana Labor in Public Works

Section 41-701, R.C.M. 1947, enacted in 1931, provides that:

In all contracts hereafter let for state, county, municipal, school, heavy highway or municipal construction, repair and maintenance work under any of the laws of this state there shall be inserted in each of said contracts a provision by which the contractor must give preference to the employment of bona fide Montana residents in the performance of said work, and that the said contractor must further pay the standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance pensions in effect and applicable to the county or locality in which the work is being performed. ...When work of a similar character is not being performed in the county or locality, the standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions shall be those rates established by collective bargaining agreements\* in effect in the county or locality for each craft, classification or type of workman needed to complete the contract.

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\*Emphasis supplied

The act further provides that:

The Montana commissioner of labor and industry shall undertake to keep and maintain copies of collective bargaining agreements and other information from which rates and jurisdictional areas applicable to public works contracts under this act may be ascertained.

During the past fiscal year the Department of Labor and Industry provided information concerning rates and jurisdictional areas to four public works contractors. Due to a lack of funding and personnel, the Department of Labor and Industry, according to the Commissioner, is currently unable to police public works contractors for violations of this act.

#### 5. Wage Protection in Restaurants, Bars and Taverns

The powers and duties of the Commissioner of Labor and Industry with respect to wage protection in restaurants, bars and taverns are codified in Title 41, Chapter 20, R.C.M. 1947. The general purpose of this act, as expressed in Section 41-2003, R.C.M. 1947, is to protect employees of lessees conducting business as restaurants, bars and taverns where the equipment, appliances and other accessories necessary for the conduct of business therein are owned by the lessor, and to assure the payment of wages to such employees in the event the lessee ceases operation of his business and is unable to pay the wages due and owing to his employees.

Section 41-2005, R.C.M. 1947 requires that any person who leases from another premises, equipment, appliances or accessories for the purpose of conducting a restaurant, bar or tavern must file with the Commissioner of Labor and Industry: 1) a bond equal to at least double the amount of the semi-monthly payroll; and 2) an affidavit showing the name of the owner of the equipment, appliances and other accessories. In addition, Section 41-2010, R.C.M. 1947 provides that the Commissioner may require a new bond or a bond of a greater amount than that described above whenever he deems it necessary for the protection of the employees of a lessee. Upon filing the required bond, and after payment of a \$2.00 application fee the Commissioner issues to the lessee a certificate stating that the lessee is duly bonded and entitled to conduct a restaurant, bar or tavern business in Montana (Section 41-2009, R.C.M. 1947). As provided in Section 41-2011, R.C.M. 1947 the \$2.00 fees collected are to be deposited in a special account known as the Restaurant, Bar and Tavern Wage Protection Earmarked Revenue Account\* (#208,600). Funds in this account are to be used by the Commissioner to carry out the provisions of the Restaurant, Bar and Tavern Wage Protection Act.

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\*This account was brought to a zero balance on June 30, 1969, after several fiscal years of inactivity.



Provisions for enforcement of this act are outlined in Section 41-2008, R.C.M. 1947 which reads as follows:

If any person engages in the restaurant, bar or tavern business, as lessee, without having first filed a bond as required by section 41-2005 of this act, the attorney general of the state of Montana, the commissioner of labor and industry of the state of Montana, or any citizen, group of citizens or any association in the county where the violator conducts his business may institute an action to enjoin such person from engaging in the business until compliance with this act has been met.

According to the Commissioner of Labor and Industry, no one has ever been prosecuted for a violation of this act. As estimated by the Commissioner, the Department receives about 150 complaints per year for wage collections under the provisions of this act; however, the Commissioner is unable, due to a lack of funding and personnel, to honor these complaints. At the present time, the Department has bonds filed on about 50 bars. The Commissioner has indicated that there are in this state some 3,000 bars, and he has no idea of how many restaurants and taverns there are.

#### 6. Report of the Activities of Free Public Employment Offices

Section 3-1502, R.C.M. 1947, enacted in 1921, states that:

It is the duty of the city council of any incorporated city of the first or second class within this state, and it shall be lawful for the city council for any other incorporated city, to provide for the establishment of a free public employment office to be conducted on the most approved plan, and to provide for the expenses out of the revenues of the city in which the same is established. The annual report of the department of labor and industry shall contain a detailed account of all such free employment offices within the state showing the number of applicants for employment, the number securing employment and the expenses of maintaining such offices.

According to the Commissioner of Labor and Industry no such free public employment offices presently exist in the state of Montana. Due to the establishment in 1937 of the Employment Security Commission, the law is archaic and obsolete.

#### 7. Protection from Discrimination

The 39th Legislative Assembly enacted a law (Section 1, Chapter 201, Laws of 1965) guaranteeing freedom from discrimination for all persons in the state of Montana. This act has been codified and is now known as Title 64, Chapter 3, R.C.M. 1947. The general provisions for freedom of discrimination are outlined in Section 64-301, R.C.M. 1947, which reads as follows:

The right to be free from discrimination because of race, creed, color or national origin is recognized as and declared to be a civil right. This right shall include but not be limited to: (1) The right to obtain and hold employment without discrimination. (2) The right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

Definitions of terms used in the act are outlined in Section 64-302, R.C.M. 1947, and penalties for violations are outlined in Section 64-303, R.C.M. 1947.

The act itself does not specify who should enforce its provisions. It is assumed that, for this reason, the enforcement of this act was assigned by the Governor to the Department of Labor and Industry on February 20, 1969 by means of an executive letter. In order to enforce the provisions of this act, the Department of Labor and Industry investigates all complaints of discrimination and enforces the law by persuasion and by threat of potential federal intervention. It is estimated by the Commissioner of Labor and Industry that 48-50 complaints per year in the area of employment are dealt with by the Department. No complaints have been received by the Department concerning public resorts, accommodations, assemblage or amusements. No enforcement actions were filed by the Department of Labor and Industry in the past fiscal year. It should be noted that in the performance of this function the Department of Labor and Industry cooperates with the Equal Employment Opportunity Commission, a federal agency.

#### 8. Federal-State Cooperation

Section 41-1137, R.C.M. 1947 authorizes the Department of Labor and Industry to assist and cooperate with the Wage and Hour Division and the Children's Bureau of the United States Department of Labor in the enforcement within this state of the federal Fair Labor Standards Act of 1938. In addition, the Department of Labor and Industry is authorized to receive and expend money granted to it by the United States Department of Labor for the reasonable costs of such assistance and cooperation.

At the current time, the relationship between the Department of Labor and Industry and the United States Department of Labor is one of information exchange only. No funds are presently being granted to the Department of Labor and Industry by the United States Department of Labor.

#### 9. Providing Statistics

Section 3-1504, R.C.M. 1947, enacted in 1921, requires the Department of Labor and Industry to "prepare statistics and data, and... publish a report relating to the agricultural, commercial, mining, manufacturing and other resources of the state...." The law further

provides that "The department shall open correspondence with bureaus of emigration, boards of trade, and other organizations who are willing to assist in disseminating information in regard to climate, industries, and resources of the state of Montana to the end that such information may become as generally available as possible." In addition, Section 3-1505, R.C.M. 1947 provides that all state and county officers must furnish upon request statistics and information relating to the population, climatic conditions, and assessed valuation of the state or any subdivision thereof.

Due to a lack of funding and personnel the Department of Labor and Industry is presently not performing this function.

#### 10. Mediation and Conciliation

At the present time the Commissioner of Labor and Industry is, without authorization but out of necessity, providing mediation and conciliation services to employers and employees involved in labor disputes. Mediation, it should be noted, is an offering by a disinterested third party of non-compulsory settlement to a labor dispute. During the past year the Commissioner has mediated 21 disputes, 4 strikes, and presently has 5 strikes pending. In addition, the Department has supervised three labor elections. The Commissioner of Labor and Industry has indicated that he expects a great increase in the near future in the need for mediation and conciliation services in both the public and private sectors.

#### 11. Miscellaneous

In addition to the above outlined specific powers and duties of the Department of Labor and Industry the Commissioner has indicated that he or his assistant will enforce upon request or complaint the provisions of other laws of Montana that have to do with the regulation of the employer--employee relationship, and whose enforcement or administration is uncertain because it is not specified in the law. These statutes would include, but are not limited to, the following:

- A. Section 77-501, R.C.M. 1947: veteran's employment rights; preferences for public employment.
- B. Section 94-1424, R.C.M. 1947: bribery of employees by employers.
- C. Section 94-1616, R.C.M. 1947: extortion of employees by employers.
- D. Section 94-35-256 and 94-35-257, R.C.M. 1947; and Section 94-3556, R.C.M. 1947: use of false representation by employer to procure workmen.
- E. Section 94-3536 and 94-3537, R.C.M. 1947: compelling employees to board in company boarding houses.
- F. Section 41-1135 and 41-1136, R.C.M. 1947: employment of bartenders, waitresses and waiters under 21 years of age forbidden.

G. Section 94-1615, R.C.M. 1947: non-payment of wages to secure a discount of indebtedness forbidden.

H. Sections 11-1931 through 11-1935, R.C.M. 1947: minimum wages and hours of firemen in cities of first and second class.

I. Section 11-1936 and 11-1938, R.C.M. 1947: compensation for members of volunteer fire departments.

J. Title 41, Chapter 1, R.C.M. 1947: obligations of employers.

K. Title 41, Chapter 2, R.C.M. 1947: obligations of employees.

L. Title 41, Chapter 3, R.C.M. 1947: termination of employment.

M. Title 41, Chapter 4, R.C.M. 1947: master and servant.

N. Title 41, Chapter 5, R.C.M. 1947: service without employment.

O. Title 41, Chapter 18, R.C.M. 1947: regulation of labor unions.

P. Section 61-210, R.C.M. 1947: wages of minors.

Q. Title 45, Chapter 6, R.C.M. 1947: liens for wages.

R. Section 18-305, R.C.M. 1947: preference given for wages.

S. Section 93-4203, R.C.M. 1947: injunctions not allowed in labor disputes.

T. Section 93-5816, R.C.M. 1947: exemption of earnings--debts incurred for necessities.

U. Section 82-1137 and 82-1138, R.C.M. 1947: union label for state printing.

V. Sections 94-35-231 through 94-35-235, R.C.M. 1947: protection of trademarks.

Funding and Personnel. The Labor Administration program is financed by legislative appropriations from the general fund. Expenditures during the past biennium totalled \$ 52,951. In the current biennium, it is estimated by the Commissioner that \$ 64,025 will be expended for this program.

The Labor Administration program requires 3 full-time personnel. This includes the Commissioner, his assistant, and one secretary.

## Apprenticeship Training

General. The Apprenticeship Training program, established in 1941, is administered by the Apprenticeship Unit of the Department of Labor and Industry under the supervision of an Apprenticeship Council, as provided in Title 41, Chapter 12, R.C.M. 1947. The general purpose of the Apprenticeship program is to insure that apprenticeship training in the various trades is conducted in accordance with standards set by the Apprenticeship Council in accordance with Sections 41-1204 and 41-1205, R.C.M. 1947, and administered and enforced by the Apprenticeship Unit of the Department of Labor and Industry.

Description. In accordance with Section 41-1201, R.C.M. 1947 the Apprenticeship Council consists of six members appointed by the Governor to staggered three year terms. Three of the members represent active employers employing persons in recognized apprenticeship trades, and three of the members represent active employee organizations whose members are employed in recognized apprenticeship trades. The Commissioner of Labor and Industry, the official who has been designated by the Board for Vocational Education as being in charge of trade and industrial education and the official who has immediate charge of the Employment Service (of the Employment Security Commission) are ex-officio members of the Apprenticeship Council without vote. Members of the Council receive \$15 per diem and actual and necessary travel expenses while on official business. The Council meets twice per year, though a regular meeting schedule is not required by law.

As provided in Section 41-1201, R.C.M. 1947 the Apprenticeship Council, subject to the approval of the federal Bureau of Apprenticeship Training of the United States Department of Labor, is empowered to: 1) establish standards for apprenticeship agreements in accordance with the provisions of Section 41-1204, R.C.M. 1947<sup>\*</sup>; 2) issue such rules and regulations as may be necessary to carry out the intent and purposes of Title 41, Chapter 12, R.C.M. 1947<sup>\*\*</sup>; and 3) make a report once every two years through the Governor of its activities and findings to the legislature (this report is made available to the public). In addition, the Council is required to perform the duties outlined in Section 41-1202, R.C.M. 1947 which reads as follows:

The state apprenticeship council by a majority vote, shall:

(1) encourage and promote the making of apprenticeship agreements conforming to the standards established by or in accordance with this act;

(2) register such apprenticeship agreements as are in the best interests of the apprenticeship and conform to the standards established by or in accordance with this act;

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\* Note: The Apprenticeship Council has never performed this function.

\*\* Note: The Apprenticeship Council has never issued rules and regulations to carry out the purposes of this act.

(3) keep a record of apprenticeship agreements and upon performance thereof issue certificates of completion of apprenticeship;

(4) terminate or cancel any apprenticeship agreements in accordance with the provisions of such agreements; and who

(5) may act to bring about the settlement of differences arising out of the apprenticeship agreement where such differences cannot be adjusted locally or in accordance with the established trade procedure.

Finally, the Apprenticeship Council is required by Section 41-1203, R.C.M. 1947 to approve the establishment of what are known as local and state joint apprenticeship committees. These committees are established to provide special standards, subject to the approval of the Apprenticeship Council, to fit the local needs of any given trade or group of trades.

At the present time the Apprenticeship Council actually exercises only three of the above outlined powers. This includes: 1) setting general guidelines (but not formal rules and regulations) of policy for the Apprenticeship Unit of the Department of Labor and Industry; 2) issuing the biennial report; and 3) approving the establishment of and standards for local and state joint apprenticeship committees. The five specific functions provided for in Section 41-1202, R.C.M. 1947 are administered by the Apprenticeship Unit under a grant of authority from the Council.

Section 41-1201, R.C.M. 1947 provides that:

'The commissioner of labor and industry may, subject to the approval of the appointed members of the council, appoint a director of apprenticeship and such other clerical, technical and professional staff as shall be deemed necessary to carry out the provisions of this act.'

The director and technical staff (one fieldman and one secretary) now comprise the Apprenticeship Unit of the Department of Labor and Industry. Generally, the Apprenticeship Unit is responsible to administer the program of Apprenticeship Training on a day by day basis. This includes the performance of the following functions:

(1) promoting the making of apprenticeship agreements, and approving all business establishments for training apprentices;

(2) registering all apprentices, filing original agreements and keeping monthly work records of all apprentices;

(3) inspecting all business establishments and apprentices' work records every six months;

(4) approving employment of apprentices on state highway and federal work projects;

- (5) issuing all diplomas or completion certificates to apprentices;
- (6) certifying apprentices and their respective programs to the selective service for draft deferments;
- (7) keeping a permanent record of all apprentices, cancelled, suspended, and completed;
- (8) settling differences arising out of apprenticeship agreements where such differences cannot be adjusted locally or in accordance with established trade procedures;
- (9) acting as the state approving agency for the recently enacted GI Bill for apprenticeship and on-the-job training of veterans (to this end, the Apprenticeship Unit annually receives about \$5,000 in federal money from the Veteran's Administration).

At the present time the Department of Labor and Industry's Apprenticeship Unit has 827 registered apprentices in 69 trades. There are approximately 35 newly registered apprentices each month, and 15 completions and 14 drop-outs per month. Under the Veteran's Administration program for apprenticeship training the Department of Labor and Industry monthly investigates about 86 veterans and approves 17 on-the-job trainees.

Funding and Personnel. The Apprenticeship Council and Apprenticeship Unit are financed by legislative appropriations from the general fund, excepting those federal funds received as mentioned above. During the past biennium \$57,950 in state and federal moneys was expended by this program. It is estimated by the Commissioner of Labor and Industry that in the current biennium \$69,025 in state and federal moneys will be expended on this program.

The Apprenticeship Training program requires three full-time personnel. This includes the director of apprenticeship, a field man, and a secretary-stenographer.

#### Relations With Other Agencies

The Apprenticeship Unit of the Department of Labor and Industry cooperates with and receives funds from the Veteran's Administration in the processing and administration of the training of GI Bill apprentices. The Apprenticeship Council is required to cooperate with the Bureau of Apprenticeship Training of the U. S. Department of Labor when making standards for apprenticeship and rules and regulations for Montana's Apprenticeship Training program, but this has never been done.

The Department of Labor and Industry may cooperate with and receive money from the United States Department of Labor for the enforcement on the state level of the provisions of the Fair Labor Standards Act of 1938, as provided in Section 41-1137, R.C.M. 1947. As mentioned above, the

Department currently receives no federal funds to perform this function, and the status of the federal-state relationship is one of information exchange only.

The Department of Labor and Industry consults with the Attorney Generals regarding legal matters concerning the prosecution of employers who default in the payment of wages. In addition, the Department cooperates with county attorneys in prosecuting violations of the labor laws which have misdemeanor or fine penalties.

The Department of Labor and Industry cooperates with the federal Equal Employment Opportunity Commission in enforcing Montana's discrimination laws.

The Commissioner of Labor and Industry serves as an ex-officio member of the Industrial Accident Board, as provided in Section 92-104, R.C.M. 1947, and as a member of the newly formed inter-agency Council on Human Resources.



## BOARD OF ARBITRATION AND CONCILIATION

Title 41, Chapter 9, R.C.M. 1947 established a Board of Arbitration and Conciliation.\* This Board is to consist of three members appointed by the Governor with the advice and consent of the Senate. Of the three members, one must be an employer or selected from some association representing employers of labor; one must be a laborer, or selected from some labor organization, and not an employer of labor; and one must be a disinterested citizen. The Board is to select one of its members as Chairman, and may employ and remove a clerk of the Board. Section 41-903, R.C.M. 1947 provides that the clerk of the Board shall receive such compensation as may be allowed by the Board, but not exceeding \$5.00 per day. The Board is empowered by Section 41-903, R.C.M. 1947 to establish such rules or modes of procedure as are necessary, subject to the approval of the Governor. The Board may also hire, in accordance with Section 41-905, R.C.M. 1947, expert assistance to aid them in the investigation of disputes and controversies.

When the Board was functional, it performed those duties enumerated in Section 41-904, R.C.M. 1947. These duties included conducting investigations and holding hearings in matters of controversies and disputes arising between employers and employees in the state of Montana. Records indicate that the Board of Arbitration and Conciliation has not been formally appointed since 1895. The Commissioner of Labor and Industry has suggested that the reason why this Board has not been used since 1895 is because arbitration is a compulsory settlement, and labor and management are extremely hesitant to submit to such types of settlements because they restrict their respective bargaining positions.

At the present time, the Board is obsolete. The Commissioner of Labor and Industry has suggested that the statutes creating this Board be repealed. Presently the functions of this Board are being exercised without authorization, but out of necessity, by the Department of Labor and Industry. During the past calendar year the Department of Labor and Industry has mediated 21 disputes, 4 strikes, and presently has 5 strikes pending. In addition, the Department has supervised three labor elections. The Commissioner of Labor and Industry has indicated that he expects a great increase in the near future in the need for mediation (which is non-compulsory, and, therefore, acceptable to both labor and management) and conciliation services in both the public and private sectors.

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\*A territorial Board of Arbitration and Conciliation, created by an act of February 28, 1887, 5th Division compiled statutes 1887, Sections 82-88, was superseded by what are now Sections 41-901 to 41-909, R.C.M. 1947.

## LABOR SAFETY STUDY COMMISSION

The Labor Safety Study Commission was established by the 1967 Montana Legislature (Chapter 323, Laws of 1967). The Commission's purpose was to:

. . . suggest changes in the laws of Montana for the purpose of governing the safety provisions in places of employment and to regulate the conduct of the employer-employee relationship in matters pertaining to safety in order to insure, as much as possible, safe places of employment and to protect and preserve the physical health and well-being of employees and to endeavor to cut down employees' accidents and to revise and modernize the safety laws in order to promote safety in employment and speedy, effective, and economical ways of administering such laws. (Section 41-2101, R.C.M. 1947)

The Act creating the Commission did not specify a date for the termination of the Commission's activities. It may be assumed that, for this reason, Chapter 323 was codified and is now known as Title 41, Chapter 21, R.C.M. 1947.

Sections 41-2101 and 41-2103, R.C.M. 1947 provide that the Commission shall consist of eight members appointed by the Governor, as follows: the Commissioner of Labor and Industry as Chairman; two representatives to be selected from industry; two representatives to be selected from labor; the Chairman of the Industrial Accident Board, or his designee; a member of the medical profession; and a member of the Montana Bar Association.

The Commission concluded its study in 1968 and submitted its report to the 41st Legislative Assembly. Following submission of its report, the Commission was disbanded. The end result of the Commission's work is now known as the Montana Safety Act (Title 41, Chapter 17, R.C.M. 1947). The Commission was appropriated at the time of its inception \$5,750. During the past biennium it has expended all but 87¢ of this appropriation. No funds have been appropriated to the Commission for the current biennium.

## COMMISSION ON THE STATUS OF WOMEN

### Organization

The Commission on the Status of Women was originally established by a Governor's proclamation on May 25, 1965. It served until 1968, at which time a report was submitted to the Governor and, by the terms set by the proclamation, it was then discontinued. On June 23, 1969, the Commission was re-established by proclamation of the Governor to serve until December 31, 1972. The purpose of the Commission, as expressed by the proclamation, is to ". . . work diligently to achieve full equality for women in the affairs and the society of this state."

The Commission is composed of 30 members, all appointed by the Governor. The Commission has co-chairwomen who are also appointed by the Governor. Meetings of the Commission are held quarterly.

Presently, the Commission has no office. All mail may be addressed to: Valerie W. Scott, Co-chairwoman, Governor's Commission on the Status of Women, First Citizens Bank Building, Billings, Montana 59101.

### Funding and Personnel

The Commission on the Status of Women is presently unfunded. Clerical assistance is provided by the secretary to the Director of the Employment Security Commission, as provided in the terms of the proclamation. Office supplies (stationery, etc.) have been provided by the Governor's office and some postage has been donated by the Employment Security Commission. At present, the Commission is attempting, through the Employment Security Commission, to obtain a federal grant from the U. S. Department of Labor for the payment of the travel expenses (to and from Commission meetings) of the Commission members.

### Description of Programs

Presently the Commission has no established programs. Four committees, however, have been appointed. These include:

1. A committee to study and implement education for the employment of women;

2. A committee to study legal problems and legislative programs;

For example, there is presently a Montana law (Section 41-1118, R.C.M. 1947) that restricts women to an eight hour day. Women by law cannot work overtime.

3. A committee to study family related problems;

For example, the establishment of day-care centers for the children of employed women.

4. A committee for publicity.

Generally, any programs that will be considered will be for the development of opportunities and education for the employed and employable women of Montana.\*

#### Relations With Other Agencies

The Commission is advised by and cooperates with the Employment Security Commission and the U. S. Department of Labor, Women's Bureau. From the Employment Security Commission, the Commission receives statistical information, clerical aid, and aid in submitting applications for federal grants. From the U. S. Department of Labor, Women's Bureau, the Commission receives guidance in efficient organization and functioning, and a continuous supply of relevant publications.

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\*Mrs. Valerie Scott recently (January 19, 1970) informed this staff that the Commission's activities have expanded to include problems of a social nature (i.e. not directly related to gainful employment) that pertain to women. These problems concern the civil, political and human rights of women that are not now being studied or handled by any other state agency.

## BOARD OF HEALTH

### Administration of the Nurses' Employment Practices Act

General. The administration of the Nurses' Employment Practices Act is assigned to the Board of Health in Title 41, Chapter 22, R.C.M. 1947. The purpose of this Act is to encourage effective measures to assure uninterrupted continuation of sufficient competent nursing care of the ill and infirm in the state of Montana. Further, it is intended to encourage the practice of mutually and peacefully agreeing upon the establishment and maintenance of desirable employment practices between nurse employees, professional and practical, and their health care facility employers, either public or private (Section 41-2201, R.C.M. 1947).

Description. To the above ends, the Board of Health itself directly performs the following functions as provided in Title 41, Chapter 22, R.C.M. 1947:

- (1) The Board of Health determines what constitutes an appropriate bargaining unit. This may be requested either by the nurses or their employers. The Board of Health investigates, hears testimony, both oral and written, makes findings of fact, and renders decisions in this regard. Since July 1, 1969, the Board has made four such determinations.\*
- (2) The Board of Health requires that elections be held to determine who is to represent the nurses' labor interests. The Board determines those eligible to vote in such elections, and sends a representative to conduct and supervise these elections. Since July 1, 1969, the Board has conducted and supervised one election.
- (3) The Board of Health is empowered by Section 41-2208, R.C.M. 1947 to institute judicial proceedings to restrain improper employment practices. To date, this power has not been exercised.

Funding and Personnel. There is no specific appropriation for this program. Appropriations from the general fund to the Board for its operations (by the Legislature) are pres-

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\*Note: The Board's determinations are subject to challenge by both employers and employees. Challenges are made in the district courts of Montana's judicial system.

ently used. It is estimated by the Executive Officer of the Department of Health, that this program costs about \$3,400 per year.

The Board of Health meets six times per year. During the past twelve months, about one-eighth of the Board's time has been spent on this program. In addition, the Board's attorney (an attorney assigned from the office of the Attorney General) spends about 10 per cent of his time administering this program, and the Director of the State Department of Health and his secretary spend about 5 per cent of their time administering this program.

DEPARTMENT OF HEALTH: DIVISION OF AIR POLLUTION

INDUSTRIAL HYGIENE AND RADIATION

Industrial Hygiene

General. The Board of Health through the Department of Health is authorized by Title 69, Chapter 42, R.C.M. 1947 to administer a program of industrial hygiene, which is presently handled in the Department by the Division of Air Pollution, Industrial Hygiene and Radiation.

The general purpose of the Industrial Hygiene Program is to secure and maintain healthful working conditions at the work place. This program is necessitated by the fact that industrial processing and operation employ and produce many hazardous materials which can cause disabilities and death to the workers involved. It is estimated by the Department of Health that there are as many as 10,000 men working at jobs in Montana that could cause permanent injury to their health. This involves a wide variety of conditions varying from hearing loss to blood poisoning.

Description. In order to maintain healthful working conditions, the Department of Health, Division of Air Pollution, Industrial Hygiene and Radiation performs several functions, as authorized by and enumerated in Section 69-4203, R.C.M. 1947. This section reads as follows:

The State Department of Health shall: (1) make studies, make recommendations, and issue orders approved by the state board\* (i.e. the Board of Health) on indus-

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\*Note: To date the Department of Health has never issued an order approved by the Board for the enforcement of the provisions of the industrial hygiene law.

trial hygiene and occupational diseases; (2) keep complete records of its studies, recommendations, or orders; (3) investigate the conditions of work at any place of employment at any time; (4) report the findings of investigations to the industry concerned and co-operate with the industry in preventing or correcting conditions which are hazardous to health; (5) enforce provisions of this chapter, and rules adopted by the state board;\* (6) prepare forms and instructions for reporting occupational diseases and furnish them to physicians, hospitals, clinics, industrial plants, and labor unions on request; (7) investigate reports of deaths from occupational disease to determine the correctness of the report and the cause of the disease; (8) at least once each year compile statistical summaries on occupational diseases reported to the department.

During a representative year,\*\* 248 plants and mines covering some 6,000 people were studied, 850 recommendations were made, 522 samples were collected in the field and measured in the state laboratory, and 1070 samples were collected in the field and measured in other laboratories.

Funding and Personnel. The Industrial Hygiene Program is financed through the legislative appropriation made to the Department of Health from the general fund. For the current biennium, the appropriation, as budgeted by the Department of Health, is \$36,192. Expenditures during the past biennium totaled \$14,834.

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\*Note: Rules and regulations for the enforcement of the industrial hygiene law have never been adopted by the Board. The Department of Health is currently drafting a set of rules, however, and it is expected, according to the director of the Division of Air Pollution, Industrial Hygiene and Radiation, that these rules will be presented to the Board for their approval in June of 1970.

\*\*Note: The representative year referred to here is fiscal year 1963. The reason for citing statistics from this fiscal year is that this was the last year, prior to the current one, when an industrial hygienist was assigned full-time to this program. From 1963 to 1969 no one was assigned full-time to this program. At the present time, however, an industrial hygienist is assigned full-time to the program; consequently, the figures cited here are representative of the current program workload.

The Industrial Hygiene Program employs one full-time industrial hygienist,\* selected by means of the state's merit system. In addition, the following personnel devote part of their time to this program: a secretary (25-30 per cent); a director, that is, the division director, (20 per cent); and one chemist (50 per cent), who is paid by funds allocated to the Division of Disease Control of the Department of Health. The program receives, upon request, free technical and medical assistance from the U. S. Public Health Service. This assistance requires no state matching and, as an average, represents three man-days per month.

The director of the Division of Air Pollution, Industrial Hygiene and Radiation has estimated that approximately ninety-five per cent of the program time and expense is devoted to making studies and recommendations; and five per cent for the keeping of complete records of studies and recommendations.

Relations With Other Agencies. In administering the program of Industrial Hygiene the Board of Health, through the Department of Health, cooperates formally with the Department of Safety of the Industrial Accident Board as

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\*Note: The division director has indicated that at least five full-time personnel would be needed to adequately administer this program. This estimate is made on the basis of information derived from a survey and evaluation of Montana's Industrial Hygiene program conducted in 1963-1964 by the U. S. Public Health Service. This survey reported that there are in Montana some 1,800 industrial places of employment which, in line with good industrial hygiene practices, would require a visit at least once every three years. These visits would entail a reconnaissance survey or inspection and/or a complete study of the nature and degree of the health hazards in the working environment. In many cases more frequent and/or follow-up visits will be necessary because of the changing nature of operations and breakdowns in maintenance of control equipment. The survey further reported that it would seem reasonable to expect follow-up visits in at least 25 per cent of the plants inspected. To maintain a minimal industrial hygiene program in Montana, then, would require a workload of 600 visits and 150 revisits each year. Considering travel time in Montana, the most visits one person (which, as noted above, is all that is assigned full-time to this program at this time) could reasonably make each year would average about 200. On this basis a minimum coverage of Montana industries would require an additional three full-time industrial hygienists with supporting laboratory and secretarial personnel. The reasons for not employing more personnel for this function, as given by the division director, are (1) lack of adequate funds; and (2) difficulty in finding and employing qualified personnel.



provided in Section 41-1733, R.C.M. 1947. This section reads as follows:

The board (i.e. the Industrial Accident Board, Department of Safety) shall report occupational health hazards discovered in its investigations and inspection of places of employment to the State Board of Health and shall cooperate with the State Board of Health in carrying out its duties as specified in Title 69, Chapter 42, R.C.M. 1947.

Consultation between the two departments is on the average of about once per month.

It must be noted that although the Industrial Accident Board, Department of Safety and the Department of Health have a common goal with respect to Industrial Hygiene (i.e. the protection and maintenance of the health and safety of the workmen), they employ widely varying means to attain that end. In short, they both approach the same subject, but from different, yet complementary, aspects. Generally, the Industrial Accident Board, Department of Safety inspects for the more "common sense" aspects of industrial safety, while the Department of Health's examination is of a more technical nature, requiring scientific expertise and equipment that is best provided by the Department of Health itself.

#### STATE FIRE MARSHAL

##### Inspection and Licensing of Powder Magazines

General. The inspection and licensing of powder magazines is administered by the State Fire Marshal in accordance with the provisions of Title 69, Chapter 19, R.C.M. 1947. Section 69-1910, R.C.M. 1947 provides that:

Every person engaging in the keeping or storing of explosives shall pay an annual license fee for each magazine maintained, to be graduated by the State Fire Marshal according to the quantity kept or stored therein, of not less than one dollar nor more than twenty-five dollars. Said license fee shall be payable in advance to the State Fire Marshal and by him paid to the state treasurer.

Section 69-1911, R.C.M. 1947 provides that "The State Fire Marshal shall make, or cause to be made, at least one inspection during every year, of each licensed factory or magazine." At the present, due to lack of personnel and

budget, the State Fire Marshal is unable to adequately perform this function, that is, to inspect and license all powder magazines in the state.

The purpose of inspecting and licensing powder magazines is to insure the protection of the public from the threat of an explosion and to insure the safety of any employees working with or near the magazine.

Description. The State Fire Marshal and his deputy handle most of the licensing and inspection of powder magazines. In addition, the quartz mine inspectors of the Safety Department of the Industrial Accident Board have been designated by the Fire Marshal with the authority to inspect and license powder magazines in conjunction with their duties of mine inspection.

It is estimated by the Fire Marshal that 100-110 powder magazines are licensed annually, and of these 30-35 are inspected. About \$1,300-1,400 is collected annually in license fees, but more could be collected, according to the Fire Marshal, if enough personnel were employed to perform and administer the laws properly.

Funding and Personnel. The office of the State Fire Marshal is funded, in accordance with Section 82-1231, R.C.M. 1947, by a tax of one-half of one per cent ( $\frac{1}{2}$  of 1%) on fire insurance premiums paid to authorized insurers in this state. This tax is collected by the State Auditor who is Commissioner of Insurance, ex-officio. The revenues from this tax are deposited in the general fund (estimated revenue - \$62,000 per year) and the legislature makes appropriations from the general fund for the State Fire Marshal's office (amount, approximately \$47,000 per year).

It is estimated by the State Fire Marshal that the licensing and inspection of powder magazines costs about \$4,700 annually.

The State Fire Marshal and his deputy spend about 10 per cent of their time performing this function. In addition, one secretary spends about 7 per cent of her time performing this function. (F.T.E. = 0.27). The State Fire Marshal has estimated that 7.5 full-time personnel would be required to license and inspect all the powder magazines in the state.

Relations With Other Agencies. The quartz mine inspectors of the Industrial Accident Board assist the State Fire Marshal in the licensing and inspection of powder magazines, as described above.

LABOR COMPLIANCE SECTION OF THE CONSTRUCTION DIVISION  
OF THE HIGHWAY DEPARTMENT

Organization

The Labor Compliance Section of the Construction Division\* of the State Highway Department was established in 1956 by administrative action of the Highway Commission in compliance with the Federal-Aid Highway Act of 1956 (23 USC) and the Labor Section of the Davis-Bacon Act (40 USC 276A through 276A-5), both of which are administered by the Bureau of Public Roads. The existence of this section is required as a condition of participation by the state in federal programs and moneys administered by the Bureau of Public Roads.

The Labor Compliance Section is governed by rules and regulations prescribed by the Bureau of Public Roads\*\* which acts in this case as an agent of the United States Department of Labor.\*\* In matters or disputes concerning the method of carrying out its duties the Labor Compliance Section answers either to the Chief Construction Engineer or the State Highway Engineer.

The general purpose of the Labor Compliance Section of the Highway Department is to police the contractor's compliance with the federal labor laws that apply to all federally aided road contracts in the state of Montana. Under the interstate highway construction program this section administers a minimum of eight federal laws and executive orders. Under the primary and secondary highway construction programs this section administers a minimum of six federal laws and executive orders.

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\*Note: The Labor Compliance Section is under the jurisdiction of the Construction Division because the nature of their work requires them to work directly with construction personnel, highway contractors and their employees.

\*\*Note: The Labor Compliance Section is inspected on various occasions by the Bureau of Public Roads regional officials and semi-annually by their division officials. This inspection consists of a thorough examination of office procedures, records and directives issued by the section to the resident engineers in charge of the various projects. Inquiry into the relationship of the Labor Compliance Section with organized labor and organized management is also made. The inspection lasts from one to three days. Usually, one day is spent in the examination of general office procedures and two days are spent in the field examining field procedures. The Labor Compliance Section has been inspected by the United States Department of Labor; however, these inspections have not occurred during the past year.

## Funding and Personnel

The Labor Compliance Section is funded by the Highway Department Earmarked Revenue Fund. This section receives no federal money. In the past biennium the section expended \$59,523. The appropriation for the current biennium is \$85,212.

The Labor Compliance Section employs the following: a Labor Coordinator, two field inspectors and one clerk. A clerk-typist is usually hired during the summer months. These personnel are hired by the Construction Engineer with the approval of the Personnel Director and Personnel Board.

## Description of Programs

### Policing

General. The Labor Compliance Section works with and under the Davis-Bacon Section of the United States Department of Labor. To prevent placing the contractor in an unfair competitive position with respect to unsuccessful bidders, the Labor Compliance Section attaches information concerning minimum wage standards to each contract and sub-contract that is let for highway construction in the state of Montana. During calendar year 1969 proper forms were attached to 123 prime contracts and 146 subcontracts.

After the letting of the contract, the Labor Compliance Section meets with the contractor and any potential sub-contractors to verbally explain all rules and regulations, federal labor laws and executive orders and to answer any questions. At this time, the powers and duties of the resident Highway Department engineers with respect to labor compliance are outlined and explained in detail. During calendar year 1969, 123 pre-construction conferences were held.

During the term of the contract, the Labor Compliance Section physically inspects for compliance with labor standards and supervises the resident engineers in their inspections. The resident engineers are empowered by the Labor Compliance Section to make personal interviews with the contractor's employees, to discover if the employees are properly classed, paid the proper hourly rate, and paid the proper overtime. The resident engineer makes a record of these interviews, and receives weekly a certified copy of the contractor's payroll. He then compares the two to discover possible discrepancies. If there are discrepancies of a minor nature, the resident engineer is empowered to deal with them directly as the agent of the Labor Compliance Section. If discrepancies of a major nature are discovered, they are dealt with directly by the Labor Compliance Section.

If there are any complaints, the workman is given a standard form upon which complaints are to be filed. During fiscal year 1969, 12 complaints were registered, two investigations were completed, and two contractors were found in violation. During the same period, \$7,909.05 in wage restitution was found due under the Davis-Bacon Act (40 USC 276A through 276A-5). Also, \$280 was assessed for liquidated damages under the Wage Hour Act (40 USC 327 through 333, 5 USC 673 paragraph C, 28 USC 1499).

The functions described above are administered on the state level by the Labor Compliance Section under the provisions of the following federal laws and executive orders:

- (1) The Davis-Bacon Act (40 USC 276A through 276A-5)
- (2) The Work Hours Act of 1962 (40 USC 327 through 332, 5 USC 673C, 28 USC 1499)
- (3) The Copeland Anti-Kickback Act (18 USC 874, 40 USC 276C)
- (4) The Fair Labor Standards Act (29 USC 201 through 219)
- (5) Prevailing Wages Act (23 USC 113)
- (6) Reorganization Plan 14 of 1950, (5 USC 133Z)
- (7) Anti-Fraud Statutes (18 USC 1001, 18 USC 1020, 31 USC 231)
- (8) Executive Order #10925, as amended by Executive Order #11114; Executive Order #11246; and Executive Order #11375

Funding and Personnel. It is estimated by the Labor Compliance Section that 70 per cent of its time and money is spent administering this program. (F.T.E. = 2.90)

#### Records

The Labor Compliance Section keeps records, reports, decisions, etc. on file. This file is periodically audited by the Bureau of Public Roads for neatness, accuracy and completeness. It is estimated by the Labor Compliance Section that 15 per cent of its time and money is spent administering this program. (F.T.E. = 0.65)

## Collection of Fuel Tax

General. In compliance with Section 84-1832.1, R.C.M. 1947, the Labor Compliance Section annually collects a fuel tax from highway contractors for the State Board of Equalization.\* This fuel tax, when collected, is remitted to the State Board of Equalization. In calendar year 1968 this section collected \$438,885.74 from 154 contractors. In calendar year 1969, \$647,130.45 was collected from 241 contractors. The Highway Department estimates, based on the current level of road construction, that some 300 to 400 collections will be made when Sections 84-1830 through 84-1840, R.C.M. 1947 are fully implemented.

Funding and Personnel. It is estimated by the Labor Compliance Section that 15 per cent of its time and money is spent administering this program. (F.T.E. = 0.70)

### Relations With Other Agencies

The Labor Compliance Section is advised once a month by the State Board of Equalization, Motor Fuel Tax Director, concerning current special fuel tax regulations.

About 24 times a year the Labor Compliance Section advises the State Department of Labor and Industry concerning possible violations of state labor statutes. The State Department of Labor and Industry provides the Labor Compliance Section with a book entitled, "Labor Laws of Montana," which is given to contractors during the pre-construction conferences.

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\*Note: The reason, as given by the State Highway Engineer, that the Labor Compliance Section has been given this duty is that due to the nature of their work they are required to maintain constant field contact with highway contractors. In other words, they are where the special fuel is being used. The State Highway Engineer has advised the Commission staff that the Labor Compliance Section is not the only office in the Construction Division that would be able to perform this function.

THE EQUAL EMPLOYMENT OPPORTUNITY OFFICE OF THE  
CONSTRUCTION DIVISION OF THE HIGHWAY DEPARTMENT

Organization

The Equal Employment Opportunity Office (E.E.O.O.) of the Construction Division of the Highway Department was created in January of 1969 by administrative action of the State Highway Engineer. This office is required as a condition of state participation in federally-aided highway programs.

The E.E.O.O. has a dual authorization and responsibility. Generally, the E.E.O.O. operates under the authorization of and in accordance with the Federal Aid Highway Act of 1968 (23 USC 105A), which provides that public and private employment for federally-aided highway projects will be offered without regard to race, sex, color, creed or national origin. More specifically, this office operates through the authority of the following nine Highway Department assurances which are required and approved by the Bureau of Public Roads, Department of Transportation:

1. The State Highway Department shall administer an equal employment opportunity program which shall include a system to ascertain that the contractor and sub-contractor are complying with their equal employment opportunity contract obligations and the degree to which compliance is producing substantial progress at the various project sites in terms of minority group employment.

2. The State Highway Department program shall include effective procedures to assure that discrimination in employment on the grounds of race, color, creed, sex or national origin will not be permitted on any federally-aided highway project.

3. The State Highway Department shall appoint an equal opportunity coordinator whose primary duty shall be to administer the equal employment opportunity program as established pursuant to these assurances.

4. The State Highway Department will, when upon initiative, take affirmative action including the imposition of contract sanctions and the initiation of appropriate legal proceedings under any applicable state or federal law indicating equal employment opportunity on federally-aided highway projects, and will actively cooperate with the Federal Highway Administration on all investigation and enforcement action undertaken by the Federal Highway Administration.

5. The State Highway Department will establish and maintain effective liaison with public and private agencies and organizations which are or should be involved in equal employment programs. Such agencies and organizations include, but are not limited to labor unions, contractor associations, minority group organizations, the United States and State Employment Services, and the United States and State Departments of Labor.

6. The State Highway Department shall seek the cooperation of unions, contractors, appropriate state agencies and other related organizations in the establishment of skill training programs and will assure that all persons will have an opportunity to participate in such programs without regard to race, color, creed, sex or national origin.

7. The State Highway Department will see to it that its own policies and practices with regard to Highway Department employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, creed, sex or national origin.

8. The State Highway Department shall include in the advertised contract specifications a notification of the specific equal employment opportunity responsibilities to the successful bidder as those responsibilities are currently defined and required by the Federal Highway Administration. No requirement or obligation shall be imposed as a condition precedent to the award of a contract or a project unless such requirement or obligation is otherwise lawful as specifically set forth in the advertised specifications.

9. The State Highway Department will obtain and furnish to the Federal Highway Administration such information as may be requested to enable the Federal Highway Administration to determine compliance by the State Highway Department with these assurances.

With regard to responsibility, the E.E.O.O. answers (1) to the Federal Highway Administration concerning what the office must administer and enforce; and (2) to the State Highway Engineer concerning the methods employed in the administration and enforcement of federal laws, rules and regulations.



## Funding and Personnel

The E.E.O.O. is funded through the Highway Department Earmarked Revenue Fund. The budget appropriation for this office for fiscal year 1970 is \$14,109. The office receives no federal funds.

The E.E.O.O. now employs three full-time personnel: an equal employment officer; one assistant; and one secretary.

## Description of Program

### Contractor Compliance

General. Under the authority of the Federal Aid Highway Act of 1968 and the State Highway Department assurances numbers one, two, four, and eight, the E.E.O.O. has established a program of Contractor Compliance to insure that all contractors and sub-contractors employed by the State Highway Commission to carry out federally-aided highway projects do so in strict compliance with current equal employment standards, as prescribed by the Federal Highway Administration.

Description. After a federally-aided highway contract is awarded, and before a contractor can begin work on his contract, a pre-construction conference must be held. The conference serves the purpose of meeting with the contractor to explain his equal employment obligations under the terms of the contract, and to answer any questions the contractor might have regarding these obligations. The E.E.O.O. next conducts an equal employment compliance review of the contractor and any subcontractors. Finally, the E.E.O.O. judges, on the basis of the review, whether the contractor is in compliance with the prescribed rules and regulations.

During the term of the contract, the project engineers are required to file with the E.E.O.O. monthly reports based upon the observations of contractor employment practices. Also, the contractors are, themselves, required to submit to the E.E.O.O. a monthly report on the minority status of all employees.

The E.E.O.O. may, for enforcement purposes, employ the use of the Highway Commission's legal staff. If deemed necessary to maintain or even obtain proper compliance, a contract may be cancelled, terminated or suspended, in whole or in part. In such instances, the E.E.O.O. is required to notify the United States Department of Labor.

During calendar year 1969 the E.E.O.O. conducted 12 compliance reviews and attended 15 pre-construction conferences. Six contractors were found in compliance and six were found to be in non-compliance. In all cases of non-compliance, the situation was corrected within thirty days after the original review. No legal actions were initiated or completed in 1969.

#### Inhouse Compliance

Under the authority of the Federal Aid Highway Act of 1968 and State Highway Department assurance number seven, the E.E.O.O. has arranged to begin, in conjunction with the personnel director of the Highway Department, a program designed to insure equal employment opportunity among employees of the Highway Department itself.

#### Relations With Other Agencies

The E.E.O.O. is required by assurance number five to establish and maintain effective relations with other equal employment agencies, in particular with the State and Federal Employment Services and Departments of Labor. To date, these relations are in the developmental stage and no formal agreements for exchange or provision of services have been made. Initial lines of communication have been established, but only for purposes of information exchange.

Assurance number six requires the E.E.O.O. to seek the cooperation of public and private agencies in establishing skill training programs for the construction industry. At the present time the E.E.O.O. is coordinating the efforts of the Associated General Contractors, the Teamsters Unions, and the Northwest Indian Manpower Development Skills Center (which is located in Ronan and was funded by the State Employment Service under the M.D.T.A. program) in order to provide construction training. The center is now operating with its maximum enrollment of 150 trainees.

## SUMMARY OF PRESENT ORGANIZATION

At present in Montana 11 labor functions are being performed wholly or in part by four labor agencies and three non-labor agencies. For the purpose of this summary, the Commission staff defines the terms "labor function," "labor agency," and "non-labor agency" as follows:

1. "labor function"--a function designed to protect and/or provide for the economic and/or physical welfare of the present or potential wage earners of this state.
2. "labor agency"--an agency whose sole or primary purpose is to establish programs and provide services designed to protect and/or provide for the economic and/or physical welfare of the present or potential wage earners of this state.
3. "non-labor agency"--an agency whose primary purpose is other than the establishment and maintenance of labor functions, but that nonetheless does administer labor functions of a secondary, tertiary or other nature.

For the purpose of this report, the Employment Security Commission, the Industrial Accident Board, the Department of Labor and Industry, and the Commission on the Status of Women will be considered to be labor agencies. Two defunct agencies--the Labor Safety Study Commission and the Board of Arbitration and Conciliation--may also be considered labor agencies, though not operative ones. The Board and Department of Health, the Highway Department, and the Fire Marshal will be considered to be non-labor agencies.

The 11 labor functions and the agency or agencies responsible for these functions may be outlined as follows:

<u>Function</u>	<u>Agency or Agencies Responsible</u>
1. Unemployment Insurance	Employment Security Commission
2. Employment Services (including all federal manpower programs)	Employment Security Commission
3. Workmen's and Occupational Disease Compensation	Industrial Accident Board
4. Occupational Health and Safety	Industrial Accident Board; Fire Marshal; Department and Board of Health; Labor Safety Study Commission
5. Arbitration and Conciliation	Board of Arbitration and Conciliation
6. Apprenticeship Training	Department of Labor and Industry

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| 7. Silicosis Compensation  | Industrial Accident Board   |
| 8. Regulation of Wage Payment,<br>Hours and Employment Practices | Department of Labor and Industry;<br>Highway Department; Board of Health                      |
| 9. Regulation of Child Labor                                     | Department of Labor and Industry  |
| 10. Regulation of Discrimination<br>in Employment                | Department of Labor and Industry;<br>Highway Department; Commission on<br>the Status of Women |
| 11. Volunteer Firemen's Compensation                             | Industrial Accident Board   |

The remaining portion of this summary is a capsule description of each of the functions outlined above.

#### Unemployment Insurance and Employment Services

The Employment Security Commission is the agency responsible for Unemployment Insurance and Employment Services. The general purposes of these labor functions are: 1) to provide monetary benefits to eligible unemployed persons in order that their income might be maintained, the economy stabilized and the labor force turnover reduced; and 2) to aid persons in becoming employed and/or employable by providing counseling, training, testing and placement services.

The head of this agency is the Employment Security Commission. This Commission, created in 1937, consists of three members appointed by the Governor to four year terms, by and with the advice and consent of the Senate. Two of the members must be from opposite political parties, and serve in part-time capacities on a per-diem basis. The third member is designated Chairman at the time of his appointment, and serves in a full-time administrative capacity as the Executive Director of the agency. The Commission meets monthly, though a regular meeting schedule is not required by law. Generally, it is the duty of the Commission to provide that the Unemployment Compensation Law is properly administered. To this end the law requires that the Commission exercise policy making powers with respect to both functions, and quasi-judicial powers with respect to Unemployment Insurance.

At the present time the Commission exercises only its quasi-judicial powers. As set forth in the law this includes only hearings of appeals of decisions made by the Commission's appeals referee on disputes concerning benefits and contributions for Unemployment Insurance. The Commission does not make or approve any policy, and does not handle any administrative matters. The Commission hears about 4 appeals per meeting.

Currently, policy for the administration of all the agency's programs is set forth in the form of minimum standards of performance and administrative procedures by the U.S. Department of Labor, which, by means of federal grants, funds the entire operation of the agency. Policy, above

and beyond but not in conflict with the minimum standards, for the specific local implementation needs of each program is developed and promulgated, with the approval of the Executive Director, by the directors of Unemployment Insurance and Employment Services. Day by day supervision of the administration of all programs is handled by the Division directors under the supervision of the Executive Director.

The agency presently employs 332 full-time personnel.

In accordance with the provisions of the federal Wagner-Peyser Act the Employment Security Commission has appointed an Advisory Council, composed of fifteen members : five represent employees, five represent employers and five represent the general public. Members of the Council serve two year terms. The Council meets twice a year to advise the agency in matters of policy and to assist the agency in developing administrative and legislative programs. The Advisory Council is required as a condition of federal monetary participation.

#### Workmen's and Occupational Disease Compensation

The Industrial Accident Board is the agency responsible to administer Workmen's and Occupational Disease Compensation. The purpose of these labor functions is to provide compensation and medical benefits to workmen who have become disabled by either an industrial accident or an occupational disease.

The head of this agency is the Industrial Accident Board. This Board, created in 1915, consists of three members, two of whom are ex-officio, the Commissioner of Labor and Industry (appointed by the Governor to a 4 year term, subject to the confirmation of the Senate) and the Director of the Division of Vocational Rehabilitation (appointed to an unspecified term by the Board of Education). The third member, appointed to a 4 year term by the Governor, by and with the consent of the Senate, serves as Chairman of the Board and Executive Director of the agency. The Board meets weekly, though a regular meeting schedule is not required by law. The primary duty of the Board is to provide that the Workmen's Compensation Act (which includes provisions for occupational disease compensation) is properly administered. To this end the law requires that the Board exercise policy making and quasi-judicial powers with respect to both Workmen's and Occupational Disease Compensation.

Though vested by law in the Board, policy for the administration of the Workmen's Compensation Act is in fact formulated by the Chairman or, under the supervision and with the approval of the Chairman, by his designees in the agency. In some cases Board approval of policy is formally made; however, in all instances this approval is nothing more than formal concurrence to what has already been formulated by the Chairman or his designee in the agency. With respect to quasi-judicial matters the Board is empowered to: 1) hear disputes of valid controversies; and 2) issue orders awarding (in a specified amount to be paid in specified installments for a specified time) or denying compensation. With respect to the first, the Board itself never hears a dispute. This is done by

one of two hearings officers and/or the Chairman. In the matter of issuing orders, the Board itself never decides what specific order, or the terms thereof, will be presented to them for approval. Rather, the orders are drafted by the Chairman and presented in final form (that is, everything is on the order form except the Board's signatures) to the Board at its weekly meetings, and are signed into effect, if approved. Only about one per cent of the orders are ever refused approval by the Board, and in all cases this is done only on the recommendation of the Chairman. At the weekly meetings the Board spends about ninety per cent of its time approving orders for compensation. The remaining ten per cent of its time is spend approving policy that has been formulated by the Chairman or his designee in the agency.

The Board employs 42 full-time personnel to administer this function.

The agency is advised and assisted in the performance of these labor functions by the Advisory Committee on Workmen's Compensation, which was appointed on the recommendation of the Chairman by the Governor by an executive letter dated July 8, 1969. The Committee is composed of nine members representative of labor and management, with the Chairman of the Board serving as head. The Committee is generally responsible to review and analyze, at the pleasure of the Governor, all aspects of proposed and existing workmen's compensation laws with an end to making suggestions for additions and amendments to the next Legislature. The Committee meets quarterly.

#### Occupational Health and Safety

Four agencies, the Industrial Accident Board, the Department of Health, the Fire Marshal, and the Labor Safety Study Commission\* are responsible to perform this labor function. The general purposes of this function are: 1) to insure that all places of employment are safe and healthful; and 2) to protect the health, lives and safety of every employee in all places of employment.

With respect to Occupational Safety, the Industrial Accident Board has been given both policy making and quasi-judicial powers. As with Workmen's Compensation, the policy is formulated, in fact, by the Chairman and/or the safety director, and is then simply approved by the Board. In quasi-judicial matters with respect to Occupational Safety the Board is empowered to: 1) issue orders for the enforcement of the industrial safety laws; and 2) hold hearings at the request of effected parties to determine the justification of issuing enforcement orders. As in the case of compensation, enforcement orders drafted by the Chairman are presented for approval to the Board. A presented order has never been denied approval by the Board. Hearings, if requested, are conducted by the Chairman or the safety director.

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\*Note: The Labor Safety Study Commission, created in 1967, fulfilled its purpose by submitting its study to the 41st Legislative Assembly. The Commission is now defunct. The Act creating the Commission did not specify a date for the termination of the Commission's activities, and it is assumed that, for this reason, it was codified and is now known as Title 41, Chapter 21, R.C.M. 1947.

The day by day administration the Board's Occupational Safety program is performed by the 17-member Department of Safety, an administrative unit of the Industrial Accident Board.

Three advisory committees are currently retained to advise and assist the Board and the Department of Safety in the performance of their duties with respect to Occupational Safety. The first of these is the Advisory Committee on Boiler Rules, created by statute in 1967. This Committee is composed of three members appointed by the Governor to staggered four year terms. The Committee is required to meet at least twice a year (in fact, it now meets about five times per year) to act in a technical advisory capacity to the Board, and to formulate definitions, rules and regulations for the safe construction, installation, inspection and repair of all fixed pressure vessels. The second advisory committee is the Power Line Construction Code Committee. This is a special Committee appointed by the Industrial Accident Board to draft safety codes for the power line industry. The Committee is temporary (other code committees for other industries have been appointed in the past by the Board) serving only until the Board approves the drafted codes. Membership on these code committees is up to the discretion of the Board. The number of meetings per year is also up to the discretion of the Board. Generally, code committees will meet about five times per year. The third advisory committee is the Board of Examiners for Applicants for Coal Mine Inspector, Foreman and Examiner. By law this Board is required to pass on the qualifications of all applicants for the position of mine foreman and mine examiner, and to pass on the qualifications of applicants for the position of state coal mine inspector. The Board is composed of three members appointed by the Industrial Accident Board to four year terms.

The Fire Marshal's duties with respect to Occupational Safety include only the inspection and licensing of powder magazines. At the present time .27 full-time personnel perform this function, but the Fire Marshal has estimated that it would require about .60 personnel to perform it adequately. The Fire Marshal has indicated that this program ought to be transferred to the Department of Safety because it has more to do with Occupational Safety than Public Safety, and because the quartz mine inspectors of the Department of Safety would be able to more conveniently perform the function in connection with their current duties. (the quartz mine inspectors have been deputized by the Fire Marshal to perform this function).

The Occupational Health function is currently administered in the Department of Health by the Division of Air Pollution, Industrial Hygiene and Radiation. With respect to this function the Board of Health has two powers: 1) issue orders for the enforcement of the industrial hygiene laws; and 2) make rules and regulations for the enforcement of the industrial hygiene laws. The Board has never exercised either of these powers. The function requires 2 full-time personnel, and the director of the Division which administers this function has estimated that at least five additional personnel would be required to perform the function adequately. It might be noted that the Department of Health is best equipped to perform this function since it requires technical and scientific expertise that is best provided by the Department of Health.

### Arbitration and Conciliation

The agency responsible to administer this function is the Board of Arbitration and Conciliation. The purpose of arbitration and conciliation is to force settlement between employers and employees in labor disputes. Records indicate that this Board has not been appointed since 1895. It has been suggested by the Commissioner of Labor and Industry that the reason why this Board has not been used since 1895 is because arbitration is a compulsory settlement, and both management and labor are extremely hesitant to submit to such types of settlements because they restrict their respective bargaining positions.

At the present time the Commissioner of Labor and Industry is, without authorization but out of necessity, performing mediation (which is non-compulsory, and, therefore, acceptable to both labor and management) and conciliation services.

### Apprenticeship Training

The Department of Labor and Industry, through the Apprenticeship Council, is responsible to supervise and control Apprenticeship Training in this state. Generally, the Apprenticeship Council makes policy and sets standards for Apprenticeship Training and the Department of Labor and Industry's director of apprenticeship handles the day by day administration of this function. The general purpose of this function is to insure uniformity of apprenticeship standards in the various trades.

The director of apprenticeship is appointed by the Commissioner of Labor and Industry, subject to the approval of the Apprenticeship Council. The Apprenticeship Council is composed of six members representative of labor and management, who are appointed by the Governor to staggered three year terms. The Apprenticeship Council meets twice a year.

Apprenticeship Training requires 3 full-time personnel.

### Silicosis Compensation

Since 1962 the Industrial Accident Board has been the agency responsible for Silicosis Compensation. The general purpose of this function is to provide lifetime benefits to workmen whose ability to earn has been limited because of silicosis and who are unable, otherwise, to qualify for benefits under the Occupational Disease Act.

With respect to Silicosis Compensation the Industrial Accident Board has two statutory powers: 1) policy making; and 2) quasi-judicial. As was the case with Safety and Workmen's Compensation, policy is in fact formulated by the Chairman and/or the Board secretary, acting under the supervision and with the approval of the Chairman. With respect to quasi-judicial powers, the Board is required to issue orders either awarding or denying Silicosis Compensation. These orders are drafted by the Chairman, upon the recommendation of the Board secretary, and are presented for approval to the Board at its weekly meeting. The Board has never denied approval to a presented order. The day by day administration of this function is handled by the Board secretary, with support work from the Accounting Division.



The administration of this function requires .06 full-time personnel.

#### Regulation of Wage Payment, Hours and Employment Practices

Three agencies are required to perform this function--the constitutional Department of Labor and Industry, the Highway Department, and the Board of Health. The general purpose of this function is to insure that employees receive their fair due with respect to wages, hours of work, and employment practices.

The Department of Labor and Industry is required by law to perform this function with respect to nearly every employee in the state of Montana. All policy for the performance of this function by the Department is formulated by the Commissioner and executed under his direct supervision. Currently, 2.4 full-time personnel are employed by the Department of Labor and Industry to administer this function on a statewide basis.

In order to police contractors on federally-aided highway building projects, the Highway Commission in 1956 established a Labor Compliance Section in the Construction Division of the Highway Department. The Labor Compliance Section generally administers federal laws and executive orders at the discretion of the Bureau of Public Roads. Policy for the administration of this function by the Section is formulated by the Highway Engineer. The administration of this function by the Labor Compliance Section requires 3.55 full-time personnel.\* It should be noted that the performance of this function is required as a condition for state participation in federal highway grant moneys.

The Board of Health is required by law to supervise the establishment and maintenance of employment practices between nurses and their employers. The administration of this function requires .20 full-time personnel, and twelve per cent of the Board of Health's meeting time.

#### Regulation of Child Labor

The Department of Labor and Industry is responsible for this function, the general purpose of which is to insure that children are not engaged in hazardous work. With respect to this function the Department is required each year to issue age certificates to all employees between the ages of 16 and 21. About .50 full-time personnel are employed by the Department to perform this function.

#### Regulation of Discrimination in Employment

Three executive agencies--the Department of Labor and Industry, the Highway Department, and the Commission on the Status of Women--are responsible for this function, the general purpose of which is to insure that employment in Montana is granted without regard to race, color, creed, sex or national origin.

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\*It should be noted that the Labor Compliance Section expends 15 per cent of its personnel and budget to collect a special fuel tax for the Board of Equalization.

The Department of Labor and Industry has been charged by the Governor with the responsibility of administering the state laws pertaining to this function. The performance of this function currently requires 10 per cent of the time of the Commissioner of Labor and Industry.

In January of 1969 the Highway Engineer established an Equal Employment Opportunity Office in the Construction Division of the Highway Department. This office is generally required to administer federal laws, at the discretion of the Bureau of Public Roads, which requires that public and private employment for federally-aided highway projects be offered without regard to race, sex, color, creed or national origin. Policy for the administration of this function by the Office is formulated by the Highway Engineer, subject to the approval of the Bureau of Public Roads. The performance of this function by the Office requires 3 full-time personnel. It should be noted that the performance of this function is required as a condition of state participation in federal highway grant moneys.

The Commission on the Status of Women was created on June 23, 1969 by proclamation of the Governor. The Commission is composed of 30 members and meets quarterly. The Commission performs two functions--a labor function and a social function. With respect to labor, the Commission is currently studying problems of women in regard to equal employment opportunities, with an end to establishing programs for the employed and employable women of Montana. The social function which the Commission performs consists in studying the problems of women in the areas of civil and human rights.

#### Volunteer Firemen's Compensation

Since 1935, the Industrial Accident Board has been the agency responsible to administer Volunteer Firemen's Compensation. The purpose of this function is to provide a medical, hospital and burial insurance plan for the members of the volunteer fire departments in unincorporated towns and cities in Montana.

Policy for the administration of this function is formulated by the Chairman of the Board. Day by day administration of this function is handled by the Accounting Division. The Board, through the Accounting Division, encourages fire departments to insure with a private insurance company for initial compensation coverage, by paying \$50 per year to each fire department for the payment of insurance premiums. Only when the limits of the private insurance policy are reached does the Industrial Accident Board have statutory authorization to provide for compensation for medical, hospital and burial expenses. This function requires .30 full-time personnel.

## APPRAISAL\*

Each of the functions detailed in the body of this report and described briefly in the preceding summary has a common denominator; they are all primarily intended to protect and/or provide for the economic and/or physical welfare of the present or potential wage earners of this state in a manner that is acceptable to both labor and management interests.

At the present time state government's effort to provide for the welfare and protection of the wage earner is divided among nine executive agencies. There is in this state no broad-based agency charged with the comprehensive responsibility for all labor oriented functions. Consequently, there is no coordinated plan for the delivery of services, the identification of problems and the arrangement of priorities in the area of labor.

Among the individual agencies that perform labor functions there are a number of specific organizational inconsistencies and shortcomings. A description of each of these is what follows.

### Multi-Member Labor Agency Bodies

At the present time there are three multi-member labor agency bodies: the Employment Security Commission, the Industrial Accident Board, and the Apprenticeship Council. All three of these multi-member bodies are vested by law with the power to formulate policy. Only one, the Apprenticeship Council, exercises this power, and this in a limited fashion. Two of these multi-member bodies, the Industrial Accident Board and the Employment Security Commission, are vested with quasi-judicial powers. The Industrial Accident Board exercises this power only by approving what has already been decided by the Chairman. The Employment Security Commission does hold hearings and make decisions, but this in a very limited manner on a small percentage of the disputes over which it has jurisdiction.

Multi-member labor agency bodies are not performing the primary duties that have been assigned to them by law. As a practical operating necessity single administrators handle most of the duties assigned by law to the multi-member bodies.

### Defunct Labor Agencies

At the present time there are two labor agencies that are defunct: the Labor Safety Study Commission and the Board of Arbitration and Conciliation. The Labor Safety Study Commission, created in 1967, was disbanded after fulfilling its purpose by submitting its report to the 41st Legislative Assembly. Records indicate that a Board of Arbitration

\*The Commission staff wishes to emphasize that all appraisals contained herein are based on administrative principles of organization and should not in any instance be interpreted as criticisms of any single administrator.

and Conciliation has not been appointed since 1895. Though long extinct, the statutes providing for the Board have never been repealed.\* It might be noted that mediation and conciliation services are presently being provided, without authority but out of necessity, by the Commissioner of Labor and Industry.

#### Advisory and Study Committees

There are no organizational consistencies in the status, method of creation, term, method of appointment, and number of members and meetings of advisory and study committees in the labor area. In addition, it should be noted that in the case of some of these advisory and study committees, neither the Secretary of State nor the Office of the Governor has a record of their existence.

#### Labor Functions in Non-Labor Agencies

As indicated in the summary, there are a number of labor functions presently administered wholly or in part by non-labor agencies.

One is the administration of the Nurses Employment Practices Act by the Board of Health. The Executive Officer of the Board of Health has indicated that there is a conflict of interest in its administration of this Act. For one thing, the Board licenses and regulates the operation of hospitals, and it is feared by the Board that their enforcement of the Nurses Employment Practices Act might endanger the performance of this function, which is directly related to the Board's primary responsibility-- the maintenance of public health. Also, the Board of Health itself employs nurses; consequently, it may be that they would be asked to sit it judgment on their own case. The Board has indicated on the Executive Reorganization questionnaire that this function should be transferred to a department of labor.

The Fire Marshal has indicated that the licensing and inspection of powder magazines, which his office is presently responsible for, is more a matter of occupational safety than of public safety, since most of the powder magazines in this state are located in conjunction with mine and oil operations. The Fire Marshal has indicated on the Executive Reorganization questionnaire that he would like this function transferred to an agency in charge of occupational safety similar to the presently existing Department of Safety of the Industrial Accident Board. This request seems logical from an organizational point of view and in view of the fact that the quartz mine inspectors of the present Department of Safety have been deputized as Assistant Fire Marshals specifically for this function.

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\*Repeal of the statutes has been twice suggested in previous Executive Reorganization reports of 1942 and 1951.

Though by definition a labor function, the administration of the Occupational Health function by the Board and Department of Health is justified. The reason for this is that the nature of the function is extremely technical and requires scientific expertise, training and laboratory support that is best provided by the Department of Health itself. It should be noted, however, that the Board and Department of Health are presently not enforcing the Occupational Health laws because the laws are not specific with respect to Occupational Health standards. The Department of Health is currently drafting a set of specific rules and regulations for Occupational Health, to be submitted to the Board for its approval in June, 1970. It is expected that these rules would facilitate somewhat the enforcement capacity of the Occupational Health laws.

There is presently located in the Construction Division of the Highway Department a Labor Compliance Section and an Equal Employment Opportunity Office. Both of these units are required as a condition of state participation in federally-aided highway projects. Both units are generally responsible to insure that federally-aided highway construction in this state is performed in strict compliance with a fixed set of federal labor standards, rules and regulations. What these offices are to administer is prescribed by the Bureau of Public Roads, Department of Transportation. For the manner in which they execute their responsibilities, however, the Labor Compliance Section and the Equal Employment Opportunity Office answer directly to either the Highway Engineer or the construction engineer, both of whose primary concern it is to construct roads and complete projects. The Commission staff believes that building roads and insuring that the roads are built in strict compliance with set labor standards are not wholly compatible primary concerns: conflicts of interest, that might serve to jeopardize state participation in federal highway funds, could occur under the present administrative set-up.\*

#### Labor Laws

There are numerous provisions of the labor laws of Montana which are obsolete, archaic, unenforced and unenforceable. The discussion in the body of this report concerning the responsibilities, powers and duties of the Commissioner of Labor and Industry bears this fact out. In addition, many of Montana's labor laws, which are set out in not one, but several titles of the Revised Codes of Montana, are not specific with respect to who is responsible to enforce and/or administer their provisions.

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\*On April 28, 1970 the Highway Commission approved a transfer of the jurisdiction over these two offices from the Highway Department to the Department of Labor and Industry. The transfer will be effective July 1, 1970, based on an interagency agreement currently being drafted jointly by the two agencies. Funds for the Labor Compliance Section and the Equal Employment Opportunity Office will continue to be provided by the Highway Department. The Commission staff believes that such a transfer is acceptable and desirable from an organizational point of view, and in view of the fact that it would serve to eliminate the potential conflicts of interest referred to above.

## PROPOSAL

With an end to improving the effectiveness and efficiency of Montana's labor effort, the Commission staff submits the following proposal.

The staff recommends that the constitutionally established Department of Labor and Industry be made responsible for the administration and/or enforcement of all labor oriented state and federal laws, executive orders, proclamations etc. It is suggested that the Department would be the sole state agency charged with the responsibility of providing for and protecting the welfare of the wage earner, and, further, insuring that this state's human resources are properly utilized with respect to gainful employment.

More specifically, the staff recommends:

1. That the Employment Security Commission, the Industrial Accident Board, and the Apprenticeship Council be abolished. Further, it is suggested that the powers and duties of these multi-member bodies be relinquished to the Department of Labor and Industry. The Commission staff wishes to emphasize that it is here proposing simply that the multi-member bodies themselves be abolished. The functions currently performed by these bodies would continue to be performed as at present, but by the Department of Labor and Industry. If necessary, the Commissioner could appoint advisory councils in accordance with Proposal #5 to aid him in the performance of the functions now administered by the Industrial Accident Board, the Employment Security Commission, and the Apprenticeship Council. The only function that a multi-member body would perform for the Department of Labor and Industry is as outlined in Proposal #9.
2. That the Labor Safety Study Commission and the Board of Arbitration and Conciliation be abolished.
3. That, since they are of a temporary nature, the Advisory Committee on Workmen's Compensation and the Power Line Construction Code Committee be abolished when they have completed the labor functions for which they were created. The Commissioner could, of course, appoint advisory councils in accordance with Proposal #5 to perform duties of a similar nature to those performed by these two temporary advisory committees.
4. That the Advisory Committee on Boiler Rules, the Board of Examiners for Applicants for Coal Mine Inspector, Foreman, and Examiner, and the Commission on the Status of Women be abolished. Further, since these advisory councils are of a continuing nature, it is suggested that the labor functions performed by these groups be transferred to the Department of Labor and Industry. If deemed necessary, the Commissioner could appoint advisory councils in accordance with Proposal #5 to aid him in the performance of these functions.

5. That in the future all advisory and/or study councils be appointed by and at the discretion of the Commissioner to a specified term, as was the Commission on the Status of Women. Further, that a certified letter of appointments to such councils be filed with the Governor and the Secretary of State, as a precondition to the effectiveness of the appointments. Finally, it is suggested that there be a uniform limit to the number of years any advisory and/or study council may serve, with provisions for re-appointment if deemed necessary by the Governor.

6. That the following labor functions be transferred to the Department of Labor and Industry:

A. The administration of the Nurses Employment Practices Act, presently handled by the Board of Health.

B. The licensing and inspection of powder magazines, presently handled by the State Fire Marshal.

7. That all complaints of alleged violations of the Occupational Health laws be submitted to the Department of Labor and Industry. Further, that, due to the technical nature of the Occupational Health function, the Department of Health be made responsible to investigate Occupational Health violations, at the request of the Department of Labor and Industry. Finally, it is suggested that the Department of Labor and Industry be given adequate enforcement authority and responsibility to deal with Occupational Health violations. It is suggested that the Department of Health continue to conduct surveys and inspections, and make recommendations for improvements; however, when, upon inspection, the Department of Health discovers violations of the law, or of rules and regulations issued by the Board of Health and/or the Department of Labor and Industry, then the Department of Health shall report such violations to the Department of Labor and Industry.

8. That there be made provisions for mediation and conciliation services to be administered by the Department of Labor and Industry.

9. That there be created within the Department of Labor and Industry a five-member Labor Appeals Board to perform the quasi-judicial functions currently assigned to the Industrial Accident Board, the Employment Security Commission and the Commissioner of Labor and Industry. The Appeals Board should consist of the Commissioner of Labor and Industry as Chairman; two representatives of the general public, to be appointed by the Governor, serving at his pleasure; the Director of a Department of Health; and the Director of a Department of Social and Rehabilitative Services. The two appointed members should receive as compensation for their services a minimum of \$25.00 per day and actual and necessary travel expenses. It is suggested that this Board would be the ultimate arbiter, short of the District and Supreme Courts, of disputes concerning the administration of labor laws by the Department. However, with respect to disputes currently under the jurisdiction of the Industrial Accident Board, it is recommended that both parties to the dispute must agree to have the dispute arbitrated by the Board

before an appeal to the Board could be allowed. In those cases where no agreement can be reached concerning an appeal to the Board, then the decision of a lower authority (hearings officer, Commissioner etc.) would be final, short of appeal to the District Court.

10. That one of the first tasks of the Commissioner of Labor and Industry, once the Department is organized, should be to have prepared a comprehensive revision and recodification of the labor laws of Montana for presentation to the Legislature.\*

11. That the Department of Labor and Industry continue to be headed by a Commissioner who shall be subject to the provisions of the Montana Constitution, Article XVIII, Section 1, the applicable portion of which reads as follows:

The . . . department of labor and industry . . . shall be under the control of a . . . commissioner who shall be appointed by the governor, subject to the confirmation of the senate. [The] commissioner shall hold office for four (4) years, and until his successor is appointed and qualified; the compensation of [the] commissioner shall be as provided by law. The powers and duties of [the] commissioner shall be prescribed by the legislature.

The Commission staff believes the reorganization as proposed in this report would enhance the coordination of state services which are directed toward labor and employment, permit a comprehensive program approach to the existing and anticipated problems and needs of both labor and industry, and make the state's labor effort more subject to public control in a manner amenable to the desires of the citizens of the state.

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\*Within the text of this report is as comprehensive an evaluation of Montana's labor laws as has ever been made, together with staff findings regarding the enforcement, or lack thereof, of these laws. This research effort constitutes the groundwork for the revision and recodification mentioned above.



REVISED PROPOSAL FOR LABOR

With an end to improving the effectiveness and efficiency of Montana's labor effort, the Commission staff submits the following proposal.

The staff recommends that the constitutionally established Department of Labor and Industry be made responsible for the administration and/or enforcement of all labor oriented state and applicable federal laws, executive orders, proclamations, etc. It is suggested that the Department would be the sole state agency charged with the responsibility of providing for and protecting the welfare of the wage earner, and, further, insuring that this state's human resources are properly utilized with respect to gainful employment.

More specifically, the staff recommends:

1. *That the powers and duties of the Employment Security Commission, the Industrial Accident Board, and the Apprenticeship Council be transferred to the Department of Labor and Industry as follows:*

A. *That the Employment Security Commission and the Apprenticeship Council be abolished. Further, it is suggested that the powers and duties of these multi-member bodies be relinquished to the Department of Labor and Industry.*

B. *That the Industrial Accident Board be abolished. Further, it is suggested that the powers and duties of this multi-member body be transferred to an administrator of Workmen's Compensation of the Department of Labor and Industry. Also, it is suggested that the administrator of Workmen's Compensation be appointed by the Governor, serving at his pleasure. The administrator would have and exercise all the powers, duties and responsibilities currently assigned to the Industrial Accident Board.*

*The Commission staff wishes to emphasize that it is here proposing simply that the multi-member bodies themselves be abolished. The functions currently performed by these bodies would continue to be performed as at present, but by the Department of Labor and Industry. If necessary, the Commissioner or the administrator of Workmen's Compensation, whichever the case may be, could appoint advisory councils in accordance with Proposal #6 to aid him in the performance of the functions of these multi-member bodies. The only function that a multi-member body would perform for the Department of Labor and Industry is as outlined in Part A of Proposal #11.*

2. That the Labor Safety Study Commission and the Board of Arbitration and Conciliation be abolished.

3. That, since they are of a temporary nature, the Advisory Committee on Workmen's Compensation and the Power Line Construction Code Committee be abolished when they have completed the labor functions for which they were created. The Commissioner or the administrator of Workmen's Compensation, whichever the case may be, could, of course, appoint advisory councils in accordance with Proposal #6 to perform duties of a similar nature to those performed by these two temporary advisory committees.

4. That the Advisory Committee on Boiler Rules, the Board of Examiners for Applicants for Coal Mine Inspector, Foreman, and Examiner, and the Commission on the Status of Women be abolished. Further, since these advisory councils are of a continuing nature, it is suggested that the labor functions performed by these groups be transferred to their appropriate units within the Department of Labor and Industry. If deemed necessary, the Commissioner or the administrator of Workmen's Compensation, whichever the case may be, could appoint advisory councils in accordance with Proposal #6 to aid him in the performance of these functions.

5. That, since it is required by the federal government, the Advisory Council to the Employment Security Commission be made to advise and assist the Department of Labor and Industry in the same capacity in which it currently advises and assists the Employment Security Commission, subject to the conditions of appointment and service outlined in Proposal #6.

6. That in the future all advisory and/or study councils be appointed by and at the discretion of the Commissioner or the administrator of Workmen's Compensation, whichever the case may be, to a specified term, as was the Commission on the Status of Women. Further, that a certified letter of appointments to such councils be filed with the Governor and the Secretary of State, as a precondition to the effectiveness of the appointments. Finally, it is suggested that there be a uniform limit to the number of years any advisory and/or study council may serve, with provisions for re-appointment if deemed necessary by the Governor.

7. That the administration of the Nurses Employment Practices Act, presently handled by the Board of Health, be transferred to the Department of Labor and Industry.

8. That the licensing and inspection of powder magazines continue to remain the responsibility of the State Fire Marshal, and that the current interagency relationship for this function between the State Fire Marshal and the Department of Safety of the Industrial Accident Board be maintained within a Division of Compensation of the proposed Department of Labor and Industry.

9. That all complaints of alleged violations of the Occupational Health laws be submitted to the Department of Labor and Industry. Further, that, due to the technical nature of the Occupational Health function, the Department of Health be made responsible to investigate Occupational Health violations, at the request of the Department of Labor and Industry. Finally, it is suggested that the Department of Labor and Industry be given adequate enforcement authority and responsibility to deal with Occupational Health violations. It is suggested that the Department of Health continue to conduct surveys and inspections, and make recommendations for improvements; however, when, upon inspection, the Department of Health discovers violations of the law, or of rules and regulations issued by the Board of Health and/or the Department of Labor and Industry, then the Department of Health shall report such violations to the Department of Labor and Industry.

10. That there be made provisions for mediation and conciliation services to be administered by the Department of Labor and Industry.

11. That the quasi-judicial powers currently assigned to the Employment Security Commission, the Industrial Accident Board and the Commissioner of Labor and Industry be transferred to the Department of Labor and Industry, and administered in the following manner:

A. That there be created within the Department of Labor and Industry a three-member Labor Appeals Board to perform the quasi-judicial functions currently assigned to the Employment Security Commission. The Appeals Board should consist of three private citizens appointed by the Governor, serving at his pleasure. The three appointed members should receive as compensation for their services a minimum of \$25.00 per day and actual and necessary travel expenses. It is suggested that this Board would be the ultimate arbiter, short of the District and Supreme Courts, of disputes concerning the administration of Montana's Unemployment Insurance laws.

B. That the quasi-judicial powers currently assigned to the Industrial Accident Board be vested in the administrator of Workmen's Compensation and administered by a system of his design, and, further, that the administrator of Workmen's Compensation be the ultimate arbiter, short of the District and Supreme Courts, of disputes concerning the administration of Montana's Workmen's Compensation laws, Occupational Disease Compensation laws, Occupational Safety laws, Silicosis Compensation laws, and Volunteer Firemen's Compensation laws.

C. That the quasi-judicial powers currently assigned to the Commissioner of Labor and Industry continue to be vested in the Commissioner of Labor and Industry and administered by a system of his design, and, further, that the Commissioner of Labor and Industry be the ultimate arbiter, short of the District and Supreme Courts, of disputes concerning the administration of Montana's Wage Payment laws, Hours and Employment Practices laws, Child Labor laws, Discrimination laws, the Nurses Employment Practices Act, and the proposed Mediation and Conciliation laws.

12. That one of the first tasks of the Commissioner of Labor and Industry, once the Department is organized, should be to have prepared a comprehensive revision and recodification of the labor laws of Montana for presentation to the Legislature\*.

13. That the Department of Labor and Industry continue to be headed by a Commissioner who shall be subject to the provisions of the Montana Constitution, Article XVIII, Section 1, the applicable portion of which reads as follows:

The ... department of labor and industry ... shall be under the control of a ... commissioner who shall be appointed by the governor, subject to the confirmation of the senate. [The] commissioner shall hold office for four (4) years, and until his successor is appointed and qualified; the compensation of [the] commissioner shall be as provided by law. The powers and duties of [the] commissioner shall be as prescribed by the legislature.

The Commission staff believes the reorganization as proposed in this report would enhance the coordination of state services which are directed toward labor and employment, permit a comprehensive program approach to the existing and anticipated problems and needs of both labor and industry, and make the state's labor effort more subject to public control in a manner amenable to the desires of the citizens of the state.

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\* Within the text of this report is as comprehensive an evaluation of Montana's labor laws as has ever been made, together with staff findings regarding the enforcement, or lack thereof, of these laws. This research effort constitutes the groundwork for the revision and recodification mentioned above.